BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEFFREY CARSON, Claimant, vs. SIEMENS, Employer, and TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, Insurance Carrier, and SECOND INJURY FUND OF IOWA, Defendants.	:	File Nos. 1642424.01, 1653871.01 ARBITRATION DECISION Head Note Nos: 1800; 1803; 1804; 2200; 2500; 2501; 2701; 3200; 3201; 4100

STATEMENT OF THE CASE

The claimant, Jeffrey Carson, filed two petitions for arbitration seeking workers' compensation benefits from Siemens, its insurer Travelers, and the Second Injury Fund of Iowa ("the Fund"). Nicholas Pothitakis appeared on behalf of the claimant. James Bryan appeared on behalf of the defendants, Siemens and Travelers. Amanda Rutherford appeared on behalf of the Fund.

The matter came on for hearing on March 4, 2021, before deputy workers' compensation commissioner Andrew M. Phillips. Pursuant to an order of the Iowa Workers' Compensation Commissioner related to the COVID-19 pandemic, the hearing occurred via CourtCall. The parties appeared electronically, and the hearing proceeded without significant difficulties.

The record in this case consists of Joint Exhibits 1-10, Claimant's Exhibit 1-14, Defendants Siemens and Travelers' Exhibits A-C, and the Fund's Exhibits 1-4. Siemens and Travelers objected to Claimant's Exhibit 14. Arguments were heard on the record. The undersigned overruled the objection. All of the exhibits were admitted and received into the record. Testimony under oath was also taken from the claimant,

Jeffrey Carson. Also present was defendants' representative, Ellen Cohoe. Amy Pedersen was appointed the official reporter and custodian of the notes of the proceeding. The matter was fully submitted on April 2, 2021, after briefing by the parties.

STIPULATIONS

Through the hearing report, as reviewed at the commencement of the hearing, the parties stipulated and/or established the following:

File No. 1642424.01

1. There was an employer-employee relationship at the time of the alleged injury.

2. The claimant sustained an injury arising out of, and in the course of, employment, on December 27, 2017.

3. The alleged injury is a cause of temporary disability during a period of recovery.

4. The alleged injury is a cause of permanent disability.

5. The claimant had gross earnings of $1,117.00 per week, was married, and entitled to five exemptions, resulting in a weekly rate of compensation of $728.08

6. That the claimant sustained a prior qualifying loss to the right foot on October 1, 2016.

7. That the functional loss from the prior qualifying loss is 38 percent of the right lower extremity.

8. That the commencement date for Fund benefits, if any are awarded, is March 30, 2021.

Additionally, entitlement to temporary disability and/or healing period benefits is no longer in dispute. The defendants waived their affirmative defenses. Entitlement to credit is no longer in dispute.

File No. 1653871.01

1. There was an employer-employee relationship at the time of the alleged injury.

2. The claimant sustained an injury arising out of, and in the course of, employment, on July 11, 2018.

3. The alleged injury is a cause of temporary disability during a period of recovery.

4. The alleged injury is a cause of permanent disability.

5. The claimant had gross earnings of $1,157.00 per week, was married, and entitled to five exemptions, resulting in a weekly rate of compensation of $761.93.

6. That the commencement date for Fund benefits, if any are awarded, is March 30, 2021.

7. That the Fund is entitled to credit under Iowa Code section 85.64 for 115.7 weeks of permanent injury benefits.

Additionally, entitlement to temporary disability and/or healing period benefits is no longer in dispute. The defendants waived their affirmative defenses. Entitlement to credit is no longer in dispute.

General Stipulation

With regard to both files, the parties agreed upon the following stipulation, which is directly quoted from the stipulation, and thus includes any spelling or grammatical errors:

1. If the Deputy concludes the low back condition is permanent and a sequelae of the work related foot injuries – the employer is responsible for the industrial disability to be assessed.

2. If the Deputy concludes the low back condition is not permanent or a sequelae of the foot injuries the Deputy would then decide:

    a. If the claimant is permanently and totally disabled as of a bilateral foot injury (left heel, left ball and portion of right foot from work injury under 85.34(2)(t) then the employer is responsible for permanent total disability benefits.
    b. If the claimant is not permanent [*sic*] and totally disabled as a result of the work related right and left feet injury, then the Deputy would assess 2nd [*sic*] injury fund benefits based on the left heel, left ball, right foot (all portions work and non-work).

3. The Claimant and Employer stipulate that if the low back condition is permanent and a sequelae of the work related foot injuries – the industrial disability would be applied to the 7-11-18 DOI.

4. The Defendant Employer would get a credit for 51 weeks of PPD paid. This credit is based on PPD being paid from July 4, 2019 to November

20, 2019 and again from August 25, 2020 to March 29, 2021 (defendant employer agrees to pay to this date). Any additional benefits owed by the employer or Second Injury fund would be paid from March 30, 2021.

5. If the Deputy concludes 2nd injury fund entitlement, the 2nd injury fund would pay benefits at rate of $761.93 a week on the award. They would have a credit for 40 percent right lower extremity (88 weeks), 17 percent of left foot (ball) 25.5 weeks and 1 percent of left lower (heel) 2.2 weeks. (The right foot bone removal 2 percent is already in the 40 percent rating). Total credit would be 115.7 weeks of benefits. Those benefits would be payable commencing on March 30, 2021.

6. The parties agree the award of benefits for any condition would all be placed on the 7-11-18 DOI file.

7. The parties stipulate that the functional disability owed for the bilateral feet portion of the claim, with all ratings added up, is 32 weeks.

    a. 17 percent left foot (ball of foot)
    b. 2 percent right lower extremity
    c. 1 percent left lower extremity (heel of foot)

The parties are now bound by their stipulations.

ISSUES

The parties submitted the following issues for determination:

File No. 1642424.01

1. The extent of permanent disability, if any is awarded.

2. Whether the claimant is permanently and totally disabled.

3. Whether the disability is a scheduled member disability to the right and left lower extremity and low back or an industrial disability.

4. The proper commencement date for permanent partial disability benefits, if any are awarded.

5. Whether the claimant is entitled to alternate care pursuant to Iowa Code section 85.27.

6. Whether the claimant is entitled to Fund benefits.

File No. 1653871.01

1. The extent of permanent disability, if any is awarded.

2. Whether the claimant is permanently and totally disabled.

3. Whether the disability is a scheduled member disability to the right and left foot or an industrial disability.

4. The proper commencement date for permanent partial disability benefits, if any are awarded.

5. Whether the claimant is entitled to alternate care pursuant to Iowa Code section 85.27.

6. Whether the claimant is entitled to Fund benefits, and:

    a. Whether the claimant sustained a prior qualifying loss to the right and left feet on October 1, 2016, and December 27, 2017.
    b. Whether the functional loss from the prior qualifying loss is of 38 percent of the right lower extremity.
    c. Whether the claimant sustained a compensable loss to the right and left feet on July 11, 2018.
    d. The extent of the functional loss of the second qualifying loss.

FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

Jeffrey Carson, the claimant, was 47 years old at the time of the hearing. (Testimony). He resides in Macomb, Illinois. (Testimony). He has three children. (Testimony). Mr. Carson graduated from Macomb High in 1991. (Testimony). He received B's, C's, and D's. (Testimony). He had no formal education beyond high school. (Testimony).

Mr. Carson began working by mowing lawns during his teenage years. (Testimony). At age sixteen, he began working for Farm King. (Testimony). He worked 40 or more hours per week. (Testimony). He made minimum wage as a stocker at the store. (Testimony). His job required him to load items in the warehouse, such as concrete bags, cattle panels, and gates. (Testimony). He worked there for four to five years. (Testimony).

After Farm King, a temp service hired Mr. Carson. (Testimony). They placed him with Midwest Control, a motion control product factory. (Testimony). Midwest Control eventually hired him on as a full-time employee. (Testimony). He started at Midwest Control as a material handler. (Testimony). He then moved to a machine operator and press operator. (Testimony). Finally, he was promoted to an assistant supervisor. (Testimony). His positions at Midwest Control required him to lift heavy

items and work on his feet. (Testimony). He left Midwest Control after about five years for better pay with Dot Foods. (Testimony).

Dot Foods is a food distributor in Illinois. (Testimony). Mr. Carson worked for Dot Foods as a picker or order selector. (Testimony). He took items that a customer ordered, stacked them on a pallet, and then wrapped and delivered the pallet to a loading dock. (Testimony). He worked there for about one to two years before taking a job at Porcelain Products in Macomb, Illinois. (Testimony).

Porcelain Products manufactures porcelain insulators for power lines and power stations. (Testimony). Mr. Carson worked at Porcelain Products for just over four years as a CNC operator and assistant supervisor. (Testimony). His job required him to lift well over 100 pounds to set up operations. (Testimony). Mr. Carson had no difficulty performing these tasks. (Testimony).

Mr. Carson left Porcelain Products for Vaughn and Bushnell, where he worked for just over one year. (Testimony). He worked as a head turner and machine opener. (Testimony). He had to stand while working. (Testimony). He soon left Vaughn and Bushnell to work for Dresser-Rand. (Testimony). Dresser-Rand was eventually purchased by Siemens. (Testimony). Mr. Carson began working for Siemens as a machine operator in June of 2004. (Testimony).

Siemens in Burlington, Iowa, manufactured steam turbines. (Testimony). While employed with Siemens, Mr. Carson operated a machine that had lengthy shafts and weighed over 300 pounds. (Testimony). When he started at Siemens, he earned a little over seventeen and 00/100 dollars ($17.00) per hour. (Testimony). He later entered a journeyman program, which trained him to operate more complex machines. (Testimony). By the end of his time with Siemens, Mr. Carson earned twenty-eight and 95/100 dollars ($28.95) per hour. He stood for most of the day. (Testimony). He also needed to climb and perform heavy physical activities. (Testimony). He lifted, or used a crane, to lift items weighing up to five hundred pounds. (Testimony). He testified that he had no issues performing his work due to any back or foot pain. (Testimony). He last worked at Siemens in July of 2018. (Testimony). Siemens subsequently closed the plant in Burlington, Iowa, in December of 2019. (Testimony).

Of note, Mr. Carson suffers from diabetes. (Testimony). He initially went on medication and insulin, but now watches his diet. (Testimony). He also had some lower back pain which caused him to seek chiropractic care dating back to 2014. (Testimony). This pain was not constant. (Testimony). In 2016, Mr. Carson had a portion of his right foot amputated due to an infection. (Testimony). As a result, Mr. Carson was off work for four months. (Testimony). He returned to Siemens at full duty with no ongoing restrictions. (Testimony).

The defendants provided some chiropractic records with Derek King, D.C. of King Family Chiropractic that predated the December 27, 2017, date of injury. (Defendants' Exhibits D:1-23). I will review those briefly herein. On July 9, 2014, Dr.

King examined Mr. Carson. (DE D:22). Mr. Carson complained of pain in the left SI joint since the weekend. (DE D:22). He twisted around while working around the house and the pain started. (DE D:22). Mr. Carson visited Dr. King on February 9, 2015. (DE D:20). Mr. Carson pulled a muscle in his left outer thigh. (DE D:20). He also complained of left pelvic pain. (DE D:20).

On February 27, 2015, Mr. Carson complained to Dr. King of left pelvic pain. (DE D:19). Mr. King complained of left pelvic pain on March 19, 2015. (DE D:17). He also had pain down the right leg. (DE D:17). On April 10, 2015, Mr. Carson reported left pelvic pain to Dr. King. (DE D:15). He remained unsure of the cause. (DE D:15). Dr. King examined Mr. Carson on June 29, 2015, for complaints of left pelvic pain. (DE D:13). Mr. Carson indicated that his legs felt weak and that he knew that his legs were uneven because of how he was standing. (DE D:13). Dr. King found hypertonicity in the erector spinae bilaterally. (DE D:13).

On October 5, 2015, Dr. King examined Mr. Carson. (DE D:11). Mr. Carson complained of bilateral low back pain for the last week. (DE D:11). The pain worsened when Mr. Carson was working on his feet. (DE D:11). Mr. Carson visited Dr. King on December 7, 2015, complaining of bilateral low back pain. (DE D:9). He remained home from work due to pain. (DE D:9). On May 13, 2016, Mr. Carson complained of bilateral low back pain at King Family Chiropractic. (DE D:8). On September 12, 2016, Mr. Carson complained of pain in the left SI joint for the last week. (DE D:6). He was unsure as to the cause, but recently cut down a tree. (DE D:6).

Mr. Carson complained of pain in the bilateral SI joints on December 22, 2016. (DE D:4). The pain was worse on the left. (DE D:4). He wore a boot since having half of his foot removed. (DE D:4). He also complained of pain in the right knee. (DE D:4). On August 2, 2017, Mr. Carson complained of left pelvic pain and pain in the right SI joint. (DE D:2). He indicated that his pain worsened over the last week. (DE D:2). Dr. King diagnosed Mr. Carson with segmental and somatic dysfunction of the pelvic region, low back pain, sprain of the sacroiliac joint, and a strain of the muscle/fascia/tendon of the lower back. (DE D:2).

On December 27, 2017, a curlicue-shaped piece of steel entered Mr. Carson's shoe. (Testimony). It punctured the skin of the ball of his left foot. (Testimony). When he arrived home, he noticed "little pricks" in his foot. (Testimony). He also noticed blood in his shoe. (Testimony).

On January 5, 2018, Mr. Carson reported to Great River Business Health. (Joint Exhibit 1:1). He had an open wound on the plantar surface of his left foot. (JE 1:1-2). Rachel Oliverio, D.O. examined Mr. Carson. (JE 1:1). He complained of throbbing, stabbing, and burning pain. (JE 1:2). Mr. Carson was on an antibiotic for an interdigital wound on his left foot. (JE 1:2). Dr. Oliverio took note of Mr. Carson's poorly controlled diabetes, and his previous partial amputation of his right foot. (JE 1:2). Dr. Oliverio examined Mr. Carson and found an ulcerative appearing lesion on the first "MTT" joint. (JE 1:3). She also found some inflammation in the surrounding skin. (JE 1:3). Mr.

Carson's right foot showed "multiple open wounds, appear chronic in nature, along the distal anterior tibial plateau." (JE 1:3). Dr. Oliverio recommended a consultation with the wound clinic due to Mr. Carson's history and status as a non-compliant Insulin-requiring diabetic. (JE 1:3). She prescribed oral antibiotics until results of a wound culture were returned. (JE 1:3). Dr. Oliverio restricted Mr. Carson to sedentary work with walking only short distances. (JE 1:1, 3-4).

Mr. Carson returned to Great River Medical Center on January 5, 2018. (JE 1:5). Mr. Carson indicated that he had constant stabbing, throbbing, and burning pain in his foot. (JE 1:5).

On January 8, 2018, Jonathan Arnold, M.D., examined Mr. Carson for his left foot wound. (JE 1:6-10). Mr. Carson reported taking doxycycline and a topical antibiotic. (JE 1:6). He felt that he may have had an intermittent low-grade fever, but never took his temperature. (JE 1:6). Dr. Arnold did a laser Doppler toe perfusion pressure study and found that the value recorded in the left great toe was "near normal." (JE 1:6). Dr. Arnold completed a debridement of the left metatarsal head. (JE 1:7). Mr. Carson also had chronic ulcers of his right leg. (JE 1:9).

Michelle Gerdes-Boelens, D.P.M. examined Mr. Carson at the wound clinic of Great River Medical Center on January 11, 2018. (JE 1:11-19). Mr. Carson described the nexus of his injuries, and noted his uncontrolled diabetes. (JE 1:11). He also noted that the wounds on his right leg would come and go. (JE 1:11). Dr. Gerdes-Boelens noted Mr. Carson's ongoing problems included: abscess of the left foot, cellulitis of the left foot, type 2 diabetes, diabetic foot ulcer, diabetic polyneuropathy, non-pressure chronic ulcer of the other part of the left foot with necrosis of the muscle, and obesity. (JE 1:11). Dr. Gerdes-Boelens examined the wound on Mr. Carson's left foot. (JE 1:12). Dr. Gerdes-Boelens found some maceration in the foot, along with erythema. (JE 1:12). Mr. Carson also had soreness with palpation of the plantar left foot. (JE 1:12-13). Dr. Gerdes-Boelens told Mr. Carson that the infection ran deeply into his left foot. (JE 1:15). She further recommended that Mr. Carson immediately report to the emergency room for admission to the hospital. (JE 1:15). He also needed IV antibiotics, and an incision and drainage of his wound. (JE 1:15). Dr. Gerdes-Boelens recommended an insole for the right foot to prevent further ulceration. (JE 1:15). She moved Mr. Carson towards a CAM boot in order to offload weight. (JE 1:15). Upon admission to the hospital, Dr. Gerdes-Boelens performed an incision and drainage of an abscess of the left first interspace. (JE 1:18). After the procedure, Dr. Gerdes-Boelens kept Mr. Carson in the hospital for administration of IV antibiotics. (JE 1:19). She also dispensed a CAM walking boot to wear on the left foot for the relief of pressure. (JE 1:19). She finally opined that Mr. Carson would likely need a wound VAC for the left first interspace, but she wanted to be sure that all of the purulence was gone before it was applied. (JE 1:19).

While inpatient on January 12, 2018, Dr. Gerdes-Boelens re-examined Mr. Carson. (JE 1:20-21). Mr. Carson indicated that he was doing "fine," with no pain since

surgery to his left foot. (JE 1:20). He used the CAM walker while standing at the bedside. (JE 1:20). Dr. Gerdes-Boelens found no remaining necrotic tissue on the left foot and no purulence. (JE 1:20). Once the purulence was gone, the doctor would transition to the wound VAC. (JE 1:21). She also wanted a new MRI to compare to a previous MRI taken in Illinois to assess whether Mr. Carson had osteomyelitis. (JE 1:21).

Dr. Gerdes-Boelens examined Mr. Carson again on January 13, 2018, while Mr. Carson remained inpatient. (JE 1:22-23). Mr. Carson complained of a headache and indicated that he was ready to leave the hospital. (JE 1:22). He walked the hallway with his CAM boot and reported no pain in his left foot. (JE 1:22). Dr. Gerdes-Boelens found early indications of development of fibrotic tissue, which she felt a small area of skin may not be viable. (JE 1:22). The doctor told Mr. Carson that the MRI showed no signs of osteomyelitis or bone infection of the left foot. (JE 1:23). This was a positive development and allowed the doctor to begin moving toward wound healing. (JE 1:23). Dr. Gerdes-Boelens reapplied the wound dressings. (JE 1:23). The doctor opined that Mr. Carson could be discharged from the hospital. (JE 1:23).

On January 15, 2018, Mr. Carson reported to Dr. Gerdes-Boelens that he had no pain to his left foot. (JE 1:24). He was doing well with his walking boot. (JE 1:24). The doctor continued to see fibrotic tissue developing. (JE 1:24). She reapplied the wound dressing. (JE 1:25). Mr. Carson could continue to walk as long as the CAM walker was present on the left foot with a tennis shoe on the right. (JE 1:25).

Souha Haydoura, M.D. examined Mr. Carson on January 30, 2018, for a follow up of his left diabetic foot cellulitis and abscess. (JE 1:27-30). Dr. Haydoura outlined Mr. Carson's medical history. (JE 1:27). She noted that he continued to have a wound VAC in place. (JE 1:28). Dr. Haydoura found the wound on Mr. Carson's left foot to be "reassuring," with no foul smell. (JE 1:28). Dr. Haydoura changed Mr. Carson's antibiotics, and noted that if he continued to improve clinically, his antibiotic therapy could cease. (JE 1:29).

On February 13, 2018, the wound VAC was discontinued due to the presence of adequate granulation tissue. (JE 1:31). Dr. Gerdes-Boelens examined him again on the same date. (JE 1:31-37). She found no erythema to the left foot, along with no active drainage. (JE 1:32). Dr. Gerdes-Boelens found mostly granulation tissue with minimal fibrin laterally. (JE 1:32). She also found less depth at the wound site. (JE 1:32). She performed an excisional debridement of Mr. Carson's skin and subcutaneous tissue. (JE 1:32-33). This improved the appearance of the wound. (JE 1:32-33). Dr. Gerdes-Boelens ordered a consultation for a right transmetatarsal filler insole and a left custom accommodative orthotic. (JE 1:35).

Dr. Gerdes-Boelens examined Mr. Carson again on February 27, 2018. (JE 1:38-43). Mr. Carson reported a new wound on his right leg and indicated that he continued to wear the CAM walker on his left foot. (JE 1:38). He had not needed to change the dressing on his left foot. (JE 1:38). Dr. Gerdes-Boelens debrided the

wound again and noted less depth to the wound site. (JE 1:39). She opined that this constituted an improvement. (JE 1:39). She also noted some separation of the skin at the most central component of the wound site. (JE 1:39). Dr. Gerdes-Boelens found no further evidence of infection to Mr. Carson's left foot. (JE 1:42). She further recommended that he continue to walk while using the CAM boot. (JE 1:42).

On March 6, 2018, Mr. Carson returned to the wound clinic at Great River Medical Center. (JE 1:44-49). Dr. Gerdes-Boelens examined Mr. Carson's wounds. (JE 1:44). Mr. Carson continued to use a walking boot. (JE 1:44). Mr. Carson continued to have wounds forming on the right leg. (JE 1:44). The left foot wound continued to be gapped open in the plantar area. (JE 1:45). Dr. Gerdes-Boelens found less depth in the wound, indicating improvement. (JE 1:45). She performed another debridement. (JE 1:45). The doctor indicated that Mr. Carson could return to light duty work for a half shift while wearing the CAM boot. (JE 1:48).

Derek King, D.C., of King Family Chiropractic examined Mr. Carson on March 12, 2018. (JE 4:1-2). Dr. King treated Mr. Carson for left SI joint pain that he experienced for the previous few weeks. (JE 4:1). Mr. Carson attributed the pain to an altered gait due to wearing a boot on his left foot and missing half of his right foot. (JE 4:1). Pain improved with stretching and rest. (JE 4:1). Mr. Carson rated his pain between 4 and 6 out of 10. (JE 4:1). Upon palpation, Dr. King found hypertonicity in the erector spinae bilaterally and the left glutes. (JE 4:1). Dr. King opined that Mr. Carson had a good prognosis, and diagnosed him with low back pain, segmental and somatic dysfunction of the pelvic region, sprain of sacroiliac joint, and a strain of the muscle/fascia/tendon of the lower back. (JE 4:1). Dr. King counseled Mr. Carson on proper stretching of his legs and lower back. (JE 4:2).

On March 26, 2018, Mr. Carson returned to Dr. King's office for continued chiropractic care. (JE 4:3-4). Mr. Carson indicated that he felt better since the last visit, and that his boot came off. (JE 4:4). Trying to adjust to walking without the boot caused some pain across the belt line. (JE 4:4). Mr. Carson had no other complaints. (JE 4:4). He rated his pain 3 out of 10. (JE 4:4). Dr. King indicated that Mr. Carson progressed well with both symptoms and functionality. (JE 4:4). Dr. King recommended spinal adjustments three times per week for two weeks, two times per week for two weeks, and a re-examination for four weeks. (JE 4:4).

Mr. Carson had a follow up appointment with Dr. Gerdes-Boelens on April 17, 2018, for his wound issues. (JE 1:50-54). He reported wearing his work boot with insoles around his home. (JE 1:50). He also noted that when he changed the dressing on his left foot, he noticed some drainage. (JE 1:50). Dr. Gerdes-Boelens performed another debridement of the left foot wound. (JE 1:51). The wound appeared improved after the debridement. (JE 1:51). Dr. Gerdes-Boelens placed additional felt in the orthotic in order to further offload the wound. (JE 1:53). She recommended that he continue to change the dressing and finish his prescription antibiotic. (JE 1:53). The

doctor also recommended that he continue to wear his work boots and custom orthotics at all times. (JE 1:53).

On April 26, 2018, Dr. Gerdes-Boelens examined Mr. Carson for his continued left foot complaints. (JE 1:55-59). Mr. Carson reported hip and knee pain that interfered with his sleep. (JE 1:55-56). Mr. Carson told the doctor that he still had drainage on the dressing. (JE 1:56). He rated his left leg pain 2 out of 10. (JE 1:56). Mr. Carson wore his work boots with custom orthotic insole in the left side and a transmetatarsal filler in the right boot. (JE 1:56). Dr. Gerdes-Boelens performed another debridement of the left foot wound. (JE 1:57). The wound improved after the debridement. (JE 1:57). The doctor discussed the dancer's pad in the left foot as not causing his knee pain, as it was not thick enough to do so. (JE 1:58). She further recommended that Mr. Carson follow up with the orthotic manufacturer to obtain better offloading in the left foot. (JE 1:58). She also allowed Mr. Carson to return to work and standing two hours per day, with the remainder being seated. (JE 1:58). If the employer could accommodate Mr. Carson's restrictions, he could return to work immediately. (JE 1:58).

Mr. Carson continued his care with Dr. Gerdes-Boelens on May 10, 2018. (JE 1:60-64). Mr. Carson complained of increased pain in his left knee and hip. (JE 1:60). Mr. Carson indicated that he sat for most of the time at work. (JE 1:60). Mr. Carson felt that the hard cement at his job caused more pain. (JE 1:60). He continued to note drainage upon dressing changes. (JE 1:60). Mr. Carson continued to wear his work boots at all times with a custom orthotic in the left boot. (JE 1:61). There was cork along the bottom of the orthotic and PPT padding at the offloading site. (JE 1:61). Dr. Gerdes-Boelens expressed concern that the offloading efforts were too large. (JE 1:61). No significant change was noted to the wound site. (JE 1:61). The doctor again debrided the wound site, which caused the wound to appear improved. (JE 1:61). She recommended that Mr. Carson continue to change his dressings on a daily basis. (JE 1:62). Dr. Gerdes-Boelens felt that the pain in Mr. Carson's left leg was not due to the offloading padding. (JE 1:63). The doctor indicated that the offloading padding is crucial to fully healing the wound in the left foot. (JE 1:63). She recommended that he seek another opinion regarding the cause of his left leg pain. (JE 1:63). The doctor kept his work restrictions the same as his previous appointment. (JE 1:63).

On May 21, 2018, Dr. King provided additional chiropractic care to Mr. Carson. (JE 4:5-6). Mr. Carson continued to have "a lot" of pain in the left SI joint. (JE 4:5). He indicated that he wore lifts in shoes to help him walk better, but the lifts caused pain in the left SI joint and left knee. (JE 4:6). He claimed that he did not sleep much over the weekend due to his ongoing pain. (JE 4:6). He rated his pain 5 out of 10 during the appointment, and 7-8 out of 10 at the worst. (JE 4:6). Dr. King felt that Mr. Carson was progressing well. (JE 4:6).

Mr. Carson continued his chiropractic care with Dr. King on May 30, 2018. (JE 4:7-8). Mr. Carson felt well after the last visit, but he continued with some pain in the

left SI joint. (JE 4:7). He continued to adjust his shoe inserts, which helped. (JE 4:7). Even with these adjustments, the pain in the left SI joint increased over the previous few days. (JE 4:7). He rated his pain 2-3 out of 10 and 5 out of 10 at the worst. (JE 4:7). Dr. King diagnosed Mr. Carson with segmental and somatic dysfunction of the pelvic region, low back pain, a sprain of the sacroiliac joint, and a strain of the muscle/fascia/tendon of the lower back. (JE 4:7). Dr. King recommended continued chiropractic care. (JE 4:7).

Mr. Carson returned to work for a time after his surgery, but after one week his wound "broke back open." (Testimony). He was then off another three to four weeks before he could return to work. (Testimony).

On June 18, 2018, Mr. Carson followed up with Dr. King for additional chiropractic care. (JE 4:9-10). Mr. Carson reported improvement in his pain, but also noted that his pain in the left SI joint increased over the weekend. (JE 4:9). His inserts were adjusted, which helped his lower back and leg pain. (JE 4:9). He complained of more pain in the arch of the foot after the adjustment. (JE 4:9). Mr. Carson told Dr. King that his pain was currently 1 out of 10, and 3 out of 10 at the worst. (JE 4:9). He described the pain as an aching stiffness. (JE 4:9). Dr. King opined that Mr. Carson was progressing well. (JE 4:9).

On July 11, 2018, Mr. Carson returned to Dr. Gerdes-Boelens' office complaining of sharp left heel pain. (JE 1:65-70). Mr. Carson could "hardly walk." (JE 1:65). Mr. Carson blamed it on the orthotic not fitting his foot properly. (JE 1:65). He indicated being tired of wearing the orthotics. (JE 1:65). He also complained of an open, undressed wound on his right foot. (JE 1:65). The original wound site appeared unchanged, but the left heel showed erythema that extended proximally about 3 inches. (JE 1:66). Upon examination of the left foot orthotic, Dr. Gerdes-Boelens found 3 minimal shards of metal pieces measuring about 2 mm in length and less than 1 mm in width. (JE 1:66). A wound on the right foot was debrided. (JE 1:66). The left heel was debrided, and a small metal shard was removed from the left heel. (JE 1:66-67). The doctor told him to inspect his feet and the inside of his work shoes on a daily basis. (JE 1:68). Dr. Gerdes-Boelens recommended additional antibiotics, an additional x-ray, and to continue wearing a CAM walking boot. (JE 1:69). Finally, she requested that Mr. Carson return to the clinic in one week. (JE 1:69).

Since July 11, 2018, Mr. Carson has been off work. (Testimony).

Mr. Carson returned to Great River Medical Center on July 16, 2018, for continued care of his foot issues. (JE 1:71-84). Dr. Haydoura examined him for worsening left foot pain, increased blistering and drainage, in addition to increased erythema in the left heel. (JE 1:71). He also had difficulty walking, so he reported to the ER. (JE 1:71). Dr. Haydoura diagnosed Mr. Carson with cellulitis and abscess of the left foot, poorly controlled diabetes, and peripheral neuropathy. (JE 1:72). Dr. Haydoura opined that Mr. Carson may need a surgical debridement of the left foot. (JE 1:72). Dr. Gerdes-Boelens indicated that she received a call from the emergency

department that Mr. Carson presented with continued left foot complaints. (JE 1:73). The emergency department admitted Mr. Carson for administration of IV antibiotics. (JE 1:73). Mr. Carson expressed displeasure at being admitted to the hospital. (JE 1:73). Dr. Gerdes-Boelens found a blister on the left heel. (JE 1:74). She excised and drained the blister. (JE 1:74). She examined his right foot and found ulceration to the right plantar foot as well. (JE 1:74). She ordered an MRI of the left heel. (JE 1:75). Depending on the results of the MRI, she may perform a surgery for a debridement and drainage. (JE 1:75).

On July 17, 2018, Dr. Gerdes-Boelens conducted an incision and drainage of the left medial heel with debridement within subcutaneous tissues. (JE 1:85-86). An MRI showed visible ulceration and abscess in the left heel, necessitating the procedure. (JE 1:86). Dr. Haydoura consulted for long-term antibiotic management. (JE 1:86). Dr. Gerdes-Boelens also discussed a wound VAC to reduce the depth of the wound as it healed. (JE 1:86).

Mr. Carson visited Dr. Gerdes-Boelens again on August 7, 2018. (JE 1:87-90). Mr. Carson reported a poor seal on the wound VAC. (JE 1:87). He removed the wound VAC over the weekend, and used ointment, foam, and tape on his left heel. (JE 1:87). He used the same dressing on his right foot. (JE 1:87). He finished his antibiotics from Dr. Haydoura. (JE 1:87). Dr. Gerdes-Boelens debrided the right plantar foot ulceration. (JE 1:88). She also debrided the left heel wound. (JE 1:89). The wound showed no remaining necrotic tissue, and early granulation tissue was present. (JE 1:89).

On August 14, 2018, Dr. Gerdes-Boelens examined Mr. Carson. (JE 1:91). Mr. Carson indicated that he had occasional soreness to his left heel. (JE 1:91). He wore the boot on his left foot and the work boot with insole on his right foot. (JE 1:91). Dr. Gerdes-Boelens again debrided the wound on the right foot and the left heel. (JE 1:92-93). Mr. Carson called Dr. Gerdes-Boelens office complaining that his foot was bleeding since he arrived home. (JE 1:91). He bled through two dressings. (JE 1:91). He was instructed to elevate his foot and observe. (JE 1:91).

Dr. King treated Mr. Carson again on August 29, 2018. (JE 4:11-12). Mr. Carson complained of pain in the left upper back for one week. (JE 4:11). Mr. Carson wore a walking boot for the previous two months. (JE 4:11). Mr. Carson attributed his pain to walking in the boot. (JE 4:11). Pain limited Mr. Carson's ability to walk and stand. (JE 4:11). Dr. King opined that Mr. Carson's prognosis remained "good." (JE 4:11). Dr. King diagnosed Mr. Carson with panniculitis of the thoracic neck and back, myositis, segmental and somatic dysfunction of the cervical region, segmental and somatic dysfunction of the thoracic region, and strain of muscle and tendon of the back wall of the thorax. (JE 4:11).

Mr. Carson returned to Dr. Gerdes-Boelens' office on September 25, 2018. (JE 1:95-97). His left heel pain increased. (JE 1:95). He kept the dressings on his feet, and sat for the most part. (JE 1:95). He wore work boots outside and inside of his home. (JE 1:95). Dr. Gerdes-Boelens debrided Mr. Carson's right plantar ulceration to

show complete granulation tissue. (JE 1:96). She also debrided his left heel. (JE 1:96-97).

On October 1, 2018, Mr. Carson visited the wound clinic again. (JE 1:98-100). He continued to have soreness to his left heel. (JE 1:98). He wore the CAM walker on his right foot when walking around his home. (JE 1:98). Dr. Gerdes-Boelens debrided the right foot ulceration and found no change in the size of the wound site. (JE 1:99). The wound appeared improved after debridement. (JE 1:99). She also debrided Mr. Carson's left heel wound, which showed a granular wound base upon debridement. (JE 1:100).

Mr. Carson continued to report pain and soreness in his legs on October 8, 2018. (JE 1:101-104). He had no pain at the wound sites. (JE 1:101). He continued to change the dressings, and pack Prisma into his left heel wound. (JE 1:101). He continued to wear the CAM walker on the right foot and wore a wedge shoe at home. (JE 1:101). Dr. Gerdes-Boelens debrided the right plantar foot, and the left medial heel ulcerations. (JE 1:102-103).

When Mr. Carson visited Dr. Gerdes-Boelens' office on October 15, 2018, he wore a wedge shoe on his left foot for the previous week. (JE 1:105). This was more comfortable. (JE 1:105). Dr. Gerdes-Boelens debrided the right plantar foot ulceration. (JE 1:106). The right plantar foot ulceration had moderate serosanguineous drainage. (JE 1:106). After debridement, the right foot ulceration looked improved. (JE 1:106-107). Upon debridement of the left heel, Dr. Gerdes-Boelens found moderate serosanguineous drainage. (JE 1:107). The wound appeared improved after the debridement. (JE 1:107). The doctor recommended that Mr. Carson wear an offloading shoe with every step on the right foot and a diabetic shoe with every step to the left foot. (JE 1:108). Dr. Gerdes-Boelens discussed Mr. Carson's current condition. (JE 1:109). She felt that the wedge shoe did not provide much pressure relief to Mr. Carson's right foot. (JE 1:109). She recommended that he wear either the CAM walker or wedge shoe. (JE 1:109). Dr. Gerdes-Boelens recommended an MRI, and noted that if the MRI was negative, she would place Mr. Carson in a cast. (JE 1:109). She placed some additional felt offloading padding at the bilateral wound sites. (JE 1:109). Dr. Gerdes-Boelens continued to recommend that Mr. Carson remain off work. (JE 1:109).

On October 22, 2018, Mr. Carson returned to the wound clinic at Great River Medical Center. (JE 1:111-113). He denied problems with changing the dressings on his wounds. (JE 1:111). He continued to report drainage from the right foot, but little on the left heel. (JE 1:111). Mr. Carson also told Dr. Gerdes-Boelens that he wore a work boot on his left foot, and a wedge shoe on the right side. (JE 1:111). The doctor debrided both the right plantar area and the left medial heel. (JE 1:112-113). The debridements showed improved wounds. (JE 1:112-113). Dr. Gerdes-Boelens also observed moderate serosanguineous drainage from both wounds. (JE 1:112-113).

Mr. Carson followed up with Dr. Gerdes-Boelens on October 25, 2018. (JE 1:114-116). The doctor reviewed the results of Mr. Carson's most recent right foot MRI.

(JE 1:114). Dr. Gerdes-Boelens noted that she spoke with the radiologist about the results of the MRI. (JE 1:114). The radiologist told Dr. Gerdes-Boelens that there was osteomyelitis or bone infection within the end component of the middle and medial cuneiform of the right foot. (JE 1:114). Mr. Carson told the doctor that he was using the walker due to instability with the crutches. (JE 1:114). He continued to change the dressing, and informed the doctor of some drainage on the right foot. (JE 1:114). The left foot had no drainage. (JE 1:114). Mr. Carson wanted to return to work by December so that he could receive severance pay. (JE 1:114). Dr. Gerdes-Boelens examined the wounds and noted no changes from previous examinations. (JE 1:115-116). She ordered him to wear a Darco forefoot wedge to the right foot at all times. (JE 1:116).

In a statement dated October 25, 2018, Dr. Gerdes-Boelens opined that the wound on Mr. Carson's right foot was caused by Mr. Carson placing most of his weight on that foot due to his left foot injuries. (Claimant's Exhibit 1:1).

On October 29, 2018, Dr. Gerdes-Boelens examined Mr. Carson's feet again at the wound clinic. (JE 1:118-120). Mr. Carson continued to use a walker and the wedge shoe on the right foot. (JE 1:118). He continued to report aching in his legs, but no pain at the wound sites. (JE 1:118). The left heel wound showed improvement within partial thickness tissue and a layer of fibrin showing a granular wound base. (JE 1:119). The doctor performed a debridement. (JE 1:119). The doctor told Mr. Carson to wear the CAM walker on his right foot at all times while ambulating, and to use a Roll-A-Bout to keep pressure off his right foot. (JE 1:120). She also recommended that he remain off work until re-evaluation at the next wound visit. (JE 1:120). Mr. Carson had another appointment with Dr. Haydoura to determine which antibiotics to use. (JE 1:120). Dr. Gerdes-Boelens cautioned Mr. Carson as to the amount of callus present on the bottom of his right foot as it suggested continued pressure. (JE 1:120).

Dr. Haydoura examined Mr. Carson again on October 31, 2018. (JE 1:121-122). A white blood cell scan showed the possibility of osteomyelitis in the right foot. (JE 1:121). Dr. Haydoura noted that a bone scraping grew MSSA, corynebacterium, and Enterococcus faecalis. (JE 1:121). Dr. Haydoura recommended IV antibiotics via a PICC line. (JE 1:122).

Mr. Carson returned to Dr. Gerdes-Boelens' office on November 8, 2018, for a re-evaluation of his foot injuries. (JE 1:123-125). He continued to wear the CAM walker and use the Roll-A-Bout. (JE 1:123). He was able to use the CAM walker and boot about 90 percent of the time and only takes a few steps down getting into the house or the bathroom. (JE 1:123). He began to receive daily IV antibiotics. (JE 1:123). Dr. Gerdes-Boelens debrided the right foot ulceration. (JE 1:124). She noted that the left heel wound was resolving. (JE 1:124-125). The doctor told Mr. Carson to wear a CAM walker on the right foot, and use a Roll-A-Bout to prevent pressure to his wound. (JE 1:125).

On November 12, 2018, Dr. Gerdes-Boelens sent an order for a PICC line. (JE 1:126). Mr. Carson told the doctor that he kept the CAM walker on and continued to use the Roll-A-Bout. (JE 1:126). He reiterated a desire to return to work before Siemens closed in January. (JE1:126). Dr. Gerdes-Boelens debrided the right foot wound and applied EpiFix skin substitute. (JE1:127-128).

Dr. Gerdes-Boelens examined Mr. Carson again on November 19, 2018. (JE 1:129-131). Mr. Carson reported that his employer would not bring him back if he was on restrictions. (JE 1:129). He continued to use a Roll-A-Bout. (JE 1:129). He also continued to use the CAM walker. (JE 1:129). Dr. Gerdes-Boelens asked Mr. Carson how he developed a subungual hematoma to his left great toe. (JE 1:129). He thought he may have struck his toe on something. (JE 1:129). The doctor placed EpiFix on Mr. Carson's right foot. (JE 1:130). Dr. Gerdes-Boelens recommended that Mr. Carson continue to use the Roll-A-Bout to keep pressure off his right foot. (JE 1:131). She also recommended that he cover the left foot wound with foam and change the tape every other day. (JE 1:131).

Mr. Carson visited Dr. Haydoura on November 26, 2018, for follow up of his antibiotic therapy. (JE 1:132-134). Mr. Carson continued to receive IV antibiotics. (JE 1:132). His wound remained stable but did not decrease in size. (JE 1:132). Mr. Carson had significant serous drainage around the PICC line. (JE 1:133). Dr. Haydoura changed Mr. Carson's antibiotic to an oral antibiotic rather than an IV antibiotic. (JE 1:133). Mr. Carson also visited Dr. Gerdes-Boelens at the wound clinic. (JE 1:135-136).

On December 3, 2018, Mr. Carson returned to Dr. Gerdes-Boelens' office for re-evaluation of the ulceration on his right foot. (JE 1:137-139). Mr. Carson reported that his right arm had a bit of a rash, but that oral antibiotics were working well. (JE 1:137). He continued to use the Roll-A-Bout to defray pressure from the right foot. (JE 1:137). He also wore a CAM walker. (JE 1:137). The left heel continued to be epithelialized and resolved with no issues. (JE 1:138). The right foot continued to have moderate serosanguineous drainage. (JE 1:138). Dr. Gerdes-Boelens debrided the wound again, which provided an improved appearance. (JE 1:138). She recommended that Mr. Carson continue to use the Roll-A-Bout to keep pressure off his right foot. (JE 1:139). She also recommended that he continue to change the wound dressing on a daily basis. (JE 1:139).

Dr. Haydoura saw Mr. Carson again on December 10, 2018, for a follow up on his osteomyelitis. (JE 1:140-142). Mr. Carson took oral antibiotics after an allergic reaction to the PICC line. (JE 1:140). Dr. Haydoura recommended ceasing antibiotics and performing an MRI in one to two weeks to check on the status of the osteomyelitis. (JE 1:141). Levi Nathan Gause, M.D., an orthopedic doctor, also examined Mr. Carson on December 10, 2018. (JE 1:143-145). Mr. Carson told Dr. Gause that he continued to have some ulceration to the right foot that is not healing. (JE 1:143). Dr. Gause saw no drainage from the right foot ulcer. (JE 1:144). Dr. Gause recommended a repeat

MRI. (JE 1:144). Dr. Gause also discussed surgery with Mr. Carson; however, Mr. Carson indicated a lack of interest in surgery. (JE 1:144).

Mr. Carson returned to Dr. King's office on December 12, 2018. (JE 4:13-14). Mr. Carson complained of pain bilaterally in the SI joint. (JE 4:13). He attributed the pain to another setback with his foot. (JE 4:13). He noted that his foot issues caused him problems with balance and walking. (JE 4:13). He believed that this caused him to have issues with pain across from the SI joint. (JE 4:13). His pain improved with lying down or sitting. (JE 4:13). Dr. King diagnosed Mr. Carson with segmental and somatic dysfunction of the pelvic region, sacroiliitis, myositis, segmental and somatic dysfunction of the lumbar region, sprain of the sacroiliac joint, and strain of the muscle/fascia/tendon of the lower back. (JE 4:13).

On December 17, 2018, Mr. Carson returned to the wound clinic where Dr. Gerdes-Boelens again examined him. (JE 1:146-150). Mr. Carson reported continuing to perform dressing changes to his right foot. (JE 1:146). He again expressed a desire to complete one day of work on December 21. (JE 1:146). He wore a custom orthotic of the left foot and a CAM walker on the right foot. (JE 1:147). Dr. Gerdes-Boelens debrided the right foot wound again. (JE 1:147-148). She found mild periwound hyperkeratotic tissue upon examination. (JE 1:148). Dr. Gerdes-Boelens recommended continuing to use the Roll-A-Bout walker to relieve pressure from the wound site. (JE 1:149). She also recommended that Mr. Carson continue to change the dressing every other day. (JE 1:149). Dr. Gerdes-Boelens released Mr. Carson to return to work provided he enter the building using a Roll-A-Bout and be sedentary while working. (JE 1:149). Dr. Gerdes-Boelens indicated a discomfort with allowing the claimant to return to work as he needed to remain nonweightbearing on his right foot. (JE 1:149).

Dr. Gerdes-Boelens saw Mr. Carson again on December 27, 2018. (JE 1:151-154). Mr. Carson continued to take Tylenol for pain and discomfort. (JE 1:151). He continued to use a Roll-A-Bout. (JE 1:151). He presented with a right work boot and transmetatarsal filler shoe on. (JE 1:151). Dr. Gerdes-Boelens examined the right foot ulceration. (JE 1:152-153). She found a fibrogranular wound base and minimal periwound hyperkeratotic tissue. (JE 1:152). She found no exposure nor probing of tendon or bone. (JE 1:152). Dr. Gerdes-Boelens recommended that Mr. Carson remain nonweightbearing with a CAM walker on his right foot. (JE1:153). Dr. Gerdes-Boelens reviewed the MRI, and felt that there was no change from the previous MRI result. (JE 1:154). Dr. Gerdes-Boelens indicated that Mr. Carson may be a surgical candidate again. (JE 1:154). Mr. Carson described a burning sensation in his right foot, which Dr. Gerdes-Boelens ascribed to neuropathy. (JE 1:154).

Dr. Gause and Dr. Gerdes-Boelens corresponded on December 28, 2018, regarding the possibility of Mr. Carson having another surgery on his right foot. (JE 1:155). Dr. Gerdes-Boelens indicated that she felt strongly that surgery was necessary,

since the wound had not changed in three to four months. (JE 1:155). Dr. Gause agreed that the wound was stagnant. (JE 1:155).

Mr. Carson returned to Dr. Gerdes-Boelens' wound clinic again on January 3, 2019. (JE 1:156-159). He continued to change the dressing on the right foot wound, and told Dr. Gerdes-Boelens that he had the same amount of drainage from the wound. (JE 1:156). He continued to use the Roll-A-Bout and was trying to keep weight off his right foot. (JE 1:156). Dr. Gerdes-Boelens found no changes to the wound site. (JE 1:157). She continued to recommend that he wear a CAM boot and use a Roll-A-Bout. (JE 1:158). Mr. Carson began taking a multivitamin and felt improvement to his legs. (JE 1:157). Dr. Gerdes-Boelens opined that the vitamins can help, but that she did not feel that they would help heal his current wound. (JE 1:158). There remained an underlying infection and pressure keeping the wound open. (JE 1:158). The doctor recommended that he continue nonweightbearing and consider surgery to the right foot. (JE 1:158).

Joanne Miller, M.D., examined Mr. Carson on January 7, 2019. (JE 7:1-4). Mr. Carson reviewed his medical history with Dr. Miller. (JE 7:1). Mr. Carson indicated that his foot issues were not healing. (JE 7:1). Dr. Miller examined the wound on Mr. Carson's right foot. (JE 7:2-3). She indicated that the wound on Mr. Carson's right distal plantar foot was an acute Wagner grade 3 diabetic ulcer. (JE 7:2-3). Dr. Miller debrided the right foot wound. (JE 7:3). Dr. Miller recommended that Mr. Carson clean his wound on a daily basis and apply a dressing with Triad. (JE 7:3). Dr. Miller agreed that Mr. Carson had osteomyelitis of the cuneiform in the right foot. (JE 7:4). Dr. Miller opined that the right foot wound would not heal if there was continued osteomyelitis. (JE 7:4).

On January 9, 2019, Dr. Gause saw Mr. Carson again. (JE 1:160-163). Mr. Carson wanted to discuss surgical intervention. (JE 1:160). Mr. Carson reported no pain. (JE 1:161). Dr. Gause discussed a revision to the right midfoot amputation. (JE 1:162). Mr. Carson agreed to proceed with the course of treatment. (JE 1:162). Dr. Gause continued to restrict Mr. Carson to nonweightbearing status of the right lower extremity until further notice. (JE 1:162).

On January 15, 2019, Dr. Gause debrided the plantar ulcer to the level of tendon and muscle. (JE 1:167). He packed the wound with lodoform gauze and sutured the wound loosely. (JE 1:167). He also amputated the right middle and medial cuneiforms. (JE 1:167).

Mr. Carson returned to the wound clinic to see Dr. Gerdes-Boelens on January 17, 2019. (JE 1:164-166). He was two days post surgery for an excision of the right medial and middle cuneiforms, as well as an excision of the previous plantar wound site of the right foot. (JE 1:164). He continued to use the Roll-A-Bout to ambulate. (JE 1:164). He did not change the dressing. (JE 1:164). He had throbbing pain in his right foot. (JE 1:164). Dr. Gerdes-Boelens recommended that Mr. Carson continue wearing

the CAM boot and non-weightbearing. (JE 1:166). She also recommended that he remain off work due to his non-weightbearing status. (JE 1:166).

On January 21, 2019, Mr. Carson returned to Dr. Gerdes-Boelens' office. (JE 1:169-171). Mr. Carson reported doing "fine" after the surgical procedures to his right foot. (JE 1:169). He continued to use the Roll-A-Bout and CAM walker, but asked the doctor if he could use the wedge shoe so that he could begin driving. (JE 1:169). He complained that the wound VAC sometimes gets air in it, but that he remained able to reset it. (JE 1:169). The doctor examined the wounds. (JE 1:170). She recommended that he continue to wear the CAM boot, except for when driving. (JE 1:171). When he drove, he could wear a surgical shoe. (JE 1:171). He was also told to wear a CAM walker on the right foot and use a Roll-A-Bout. (JE 1:171).

Mr. Carson followed up with Dr. Gerdes-Boelens on January 28, 2019. (JE 1:172-175). He called her office the morning of the appointment indicating that the wound VAC was not holding its seal. (JE 1:172). He continued to mostly rest with his foot elevated. (JE 1:172). He reported minimal discomfort to the right foot. (JE 1:172). He also purchased another Roll-A-Bout and continued to use them. (JE 1:173). Dr. Gerdes-Boelens debrided the right foot surgical incision. (JE 1:174). She continued to recommend no steps without the CAM walker. (JE 1:175).

On February 4, 2019, Mr. Carson returned to Dr. Gerdes-Boelens' office for continued examination and care. (JE 1:176-181). He had no pain in his right foot. (JE 1:176). He completed the antibiotic. (JE 1:176). Dr. Gerdes-Boelens debrided the surgical incision site. (JE 1:177). The wound appeared improved after debridement. (JE 1:177). Both wounds showed moderate serosanguineous drainage. (JE 1:177-178). The wound VAC dressing was changed. (JE 1:178). The doctor recommended that Mr. Carson remain in the CAM walker. (JE 1:179). She further recommended that Mr. Carson return to the doctor weekly and change his wound VAC twice per week. (JE 1:179). His incision healed well, except for a minimal area that continued to display a gap. (JE 1:180). Dr. Gerdes-Boelens recommended that Mr. Carson continue to use the wound VAC. (JE 1:180). She also recommended that he continue to use the Roll-A-Bout and the CAM walker. (JE 1:180). She continued his work release. (JE 1:180). Dr. Gerdes-Boelens stated, "[a]t this point I do feel that it would be very difficult for the patient to hold a future position that requires him to stand on his feet with the amputation he has of the right foot and his risk of future ulceration and further amputation." (JE 1:180).

Rachel Oliverio, D.O. examined Mr. Carson on February 12, 2019. (JE 1:182-185). Mr. Carson reported feeling well overall. (JE 1:182). The dorsal foot incision continued to heal. (JE 1:182). The doctor excised nonviable and necrotic portions of the skin and subcutaneous tissues. (JE 1:183). Dr. Oliverio recommended that Mr. Carson continue with his current wound care regimen and continue to follow up with the wound care clinic. (JE 1:185).

On February 21, 2019, Mr. Carson returned to the wound care clinic. (JE1:186-188). He reported continued use of the Roll-A-Bout. (JE 1:186). He also wore the CAM walker. (JE 1:186). The wound VAC continued functioning. (JE 1:186). He reported occasional soreness to the right foot, but it resolved with Tylenol. (JE 1:186). The previously gapped area of the incision line healed. (JE 1:186). The dressing showed no drainage. (JE 1:187). The doctor also debrided the right foot ulceration. (JE 1:187). The wound appeared improved following the debridement. (JE 1:187). The doctor continued to recommend that Mr. Carson keep pressure off the wound site and wear a CAM walker at all times. (JE 1:188). Mr. Carson was also instructed to remain off work. (JE 1:188).

Dr. Gerdes-Boelens re-examined Mr. Carson on February 28, 2019, for his continued right foot issues. (JE 1:189-193). Mr. Carson continued to wear the CAM walker and use the Roll-A-Bout everywhere he could. (JE 1:189). He noted no issues with his left foot. (JE 1:189). The right foot ulcer was debrided and a NuShield was applied. (JE 1:191). The doctor recommended that Mr. Carson continue to wear the CAM walker on the right foot and use the Roll-A-Bout. (JE 1:191). Dr. Gerdes-Boelens recommended that Mr. Carson check his left foot on a daily basis to avoid progression of an ulceration. (JE 1:192). A callus on the right foot indicated to the doctor that Mr. Carson continued to put too much pressure on his right foot. (JE 1:192). The doctor continued to recommend that Mr. Carson remain off work. (JE 1:192).

On March 4, 2019, Mr. Carson followed up with Dr. King complaining of pain in his SI joints bilaterally. (JE 4:15-16). Mr. Carson attributed his pain to using a scooter when he walked. (JE 4:15). He rated his pain 1 out of 10 at the moment, and 3-4 out of 10 at the worst. (JE 4:15). Dr. King performed various adjustments. (JE 4:15). Dr. King recommended that Mr. Carson ensure that the height of the scooter was properly adjusted in order to prevent uneven weight distribution on the hips. (JE 4:16).

On March 7, 2019, Mr. Carson returned to Dr. Gerdes-Boelens' office for a re-evaluation of his right foot. (JE1:194-198). He reported no pain to the right foot. (JE 1:194). He continued to use the Roll-A-Bout and kept his CAM boot on. (JE 1:194). He also noted not changing the dressing. (JE 1:194). Upon debridement of the right foot, the doctor found an ulcer present within the subcutaneous tissue with a granular wound base. (JE 1:195). She placed a NuShield over the wound site. (JE1:195-196). Dr. Gerdes-Boelens also recommended that Mr. Carson remain non-weightbearing on the right side. (JE 1:197). She also continued his work release. (JE 1:197).

Mr. Carson continued treating with Dr. Gerdes-Boelens on March 18, 2018. (JE 1:199-201). Mr. Carson continued to use the Roll-A-Bout when he could and kept the walking boot in place. (JE 1:199). The doctor debrided the wound on the right foot. (JE 1:200). She applied another NuShield to the right foot. (JE 1:200).

On March 25, 2019, Mr. Carson returned to the wound clinic. (JE 1:202-204). Dr. Gerdes-Boelens examined him for an ulceration to the right foot. (JE 1:202). He denied pain to the foot. (JE 1:202). His blood sugar was increased. (JE 1:202). Dr.

Gerdes-Boelens debrided the right foot wound and noted the ulceration after debridement. (JE 1:203). Another NuShield was placed on the wound. (JE 1:203).

Mr. Carson continued to seek care from Dr. Gerdes-Boelens on April 1, 2019. (JE 1:205-207). He continued to attempt to use the Roll-A-Bout. (JE 1:205). He noted trying to change his insulin but having very high blood sugars. (JE 1:205). He had no pain in the right foot. (JE 1:205). The doctor debrided the wound and noted a layer of fibrin, dried serosanguineous drainage, and moist minimal hyperkeratotic tissue covering the wound bed. (JE 1:206). NuShield was applied again. (JE 1:206). Dr. Gerdes-Boelens recommended that he continue to use the CAM walker at all times and continue the Roll-A-Bout. (JE 1:207).

On April 8, 2019, Mr. Carson returned to Dr. Gerdes-Boelens' office for continued care for his right foot. (JE 1:208-211). Mr. Carson continued to use the Roll-A-Bout. (JE 1:208). The dressing remained in place. (JE 1:208). The doctor continued to recommend that Mr. Carson wear the CAM walker. (JE 1:210). She also recommended that Mr. Carson stop using the Roll-A-Bout at home, and only use it for long distances. (JE 1:210). Dr. Gerdes-Boelens placed SilvaSorb gel on the wound, covered it with foam, and secured it with tape. (JE 1:210). The doctor opined that the underlying wound resolved, and that Mr. Carson needed to continue to protect the wound site. (JE 1:210). She also noted that he should wear his diabetic insole with the boot on his left side. (JE 1:210).

Mr. Carson returned to the wound clinic on April 15, 2019, for treatment to his right foot. (JE 1:212-214). He discontinued using the Roll-A-Bout and had no issues. (JE 1:212). He left the dressing in place. (JE 1:212). The ulceration to the right foot continued to be epithelialized and resolved with no erythema. (JE 1:213). Dr. Gerdes-Boelens recommended that he keep the CAM walker on, and requested that Mr. Carson bring his shoe with filler insoles to the next visit. (JE 1:214).

On April 29, 2019, Mr. Carson continued his care at the wound clinic. (JE 1:215-218). He kept his right foot covered, except for about three days when Mr. Carson lacked the requisite supplies. (JE 1:215). He noted walking to the post office and had no issues with his right foot. (JE 1:215). He noted pain to the back, hips, and knees after walking to the post office. (JE 1:215). The right foot ulceration continued to be epithelialized with no erythema or drainage. (JE 1:216). Dr. Gerdes-Boelens used foam to close the site and then tape to secure the foam. (JE 1:216). She continued to recommend that he wear the CAM walker and shoe for every step. (JE 1:216). She wanted him to transition to wearing shoes. (JE 1:216). She also opined that the transmetatarsal filler remained a good fit for his right foot. (JE 1:217). The doctor continued to keep Mr. Carson off work since he could not stand for an entire work shift in his boots. (JE 1:217). He would remain off work until he fully transitioned to shoes daily, while keeping the wound site resolved. (JE 1:217).

Mr. Carson returned to Dr. Gerdes-Boelens' office on May 6, 2019, for re-evaluation of his right foot. (JE 1:219-222). Mr. Carson reported that over the previous

week, he increased his time wearing the shoe with insole. (JE 1:219). He also attempted to be on his feet more. (JE 1:219). His hips caused him some pain. (JE 1:219). His foot ulceration continued to improve. (JE 1:220). Dr. Gerdes-Boelens continued to keep Mr. Carson off work. (JE 1:221). She told him to check his feet every day, and make sure that no problems were developing. (JE 1:221). She also indicated to him that he needs to be able to work an 8-hour shift with no dressing or re-ulceration. (JE 1:221). The doctor also recommended that Mr. Carson have up to three chiropractic visits until May 20 to help with his hip pain. (JE 1:221). She discharged him from workers' compensation care and recommended that he establish care with a podiatrist for his diabetic foot care. (JE 1:222).

On May 8, 2019, Mr. Carson continued his care with Dr. King. (JE 4:17-18). Mr. Carson again had pain in his bilateral SI joints. (JE 4:17). Mr. Carson attributed his pain to stopping use of a support brace for his right foot. (JE 4:17). Mr. Carson was out of the brace for about two weeks, but noted that he felt the SI joint was unlevel and sore prior to that. (JE 4:17). Dr. King provided Mr. Carson with chiropractic care and adjustments. (JE 4:17-18).

At some point after May 8, 2019, and a subsequent appointment with Dr. King on May 15, 2019, Dr. King issued a letter. (JE 4:19). In the letter, Dr. King opined that Mr. Carson had pain in his SI joint and lower back pain since his first foot infection. (JE 4:19). Dr. King noted that a foot injury affected Mr. Carson's gait. (JE 4:19). Setbacks with his foot led to further problems with his lower back. (JE 4:19). Dr. King opined that Mr. Carson's gait continuously changed, which prevented his back from healing. (JE 4:19). Dr. King further noted that once Mr. Carson stabilized, he likely would have no pain in his back. (JE 4:19).

On May 15, 2019, Mr. Carson continued his chiropractic care with Dr. King. (JE 4:20-21). Mr. Carson indicated that he had not been having pain in his right SI joint, but that the left SI joint was still "pretty sore." (JE 4:20). He also complained of pain in the left buttock and left posterior knee, which Mr. Carson attributed to how he was walking. (JE 4:20). Dr. King performed some chiropractic treatment and noted that Mr. Carson's prognosis remained good. (JE 4:20-21).

Mr. Carson returned to Dr. King's clinic on May 17, 2019. (JE 4:22-23). Mr. Carson told Dr. King that his left SI joint was stiff and weak. (JE 4:22). Mr. Carson informed Dr. King that he walked on uneven ground the prior day, which caused Mr. Carson to feel as though "it was going to give out on him." (JE 4:22). Mr. Carson indicated that his pain was 1 out of 10 during the visit, and 2 out of 10 at its worst. (JE 4:22). Dr. King provided Mr. Carson with some chiropractic adjustments and care. (JE 4:22).

On May 22, 2019, Mr. Carson followed up with Dr. Gause. (JE 1:223-224). Dr. Gause indicated that the visit was to address an impairment rating. (JE 1:223). Dr. Gause reiterated a note from Dr. Gerdes-Boelens, which said:

> I discussed with the patient that the discomfort he is feeling is at the level of sub-second metatarsal head which is the part of the ball of the left foot that he puts most pressure on when walking, rolling off the ball of his foot with propulsion. I discussed with the patient that I can recommend that he receive metatarsal padding added to the orthotic of the left foot, however, this type of padding was present in the orthotic in the past and he did not find it to be comfortable and requested that it be removed. I discussed with the patient that unfortunately what he is feeling on the left foot does not stop the point that his right foot is at maximum medical improvement and that he is fully able to weight-bear on the right foot for extended periods of time. I discussed with the patient that from a workers comp standpoint, I do feel that he is at his maximum medical improvement for the right foot work injury since the wound has stayed resolved with weightbearing to the right foot in a shoe with walking. He is to move forward with having his impairment readings performed by Dr. Gause.
>
> The patient and I had a long discussion that he is doing exceptionally well that he still has his right foot, he is still able to walk, and that in my opinion he may never be able to stand for an 8-hour work job due to the transmetatarsal amputation present of the right foot. We discussed that any type of extensive forefoot amputation can make standing and walking difficult for the future for extended periods of time and he has to be diligent in protecting his feet.

(JE 1:223). Dr. Gause found no pain on palpation to the right foot. (JE 1:223). He also found normal plantarflexion of the right foot. (JE 1:223). Dr. Gause concurred with Dr. Gerdes-Boelens that Mr. Carson likely could not sustain an eight hour per day job. (JE 1:224). Dr. Gause recommended a functional capacity evaluation ("FCE") in order to further evaluate Mr. Carson. (JE 1:224). Dr. Gause also recommended that Mr. Carson pursue work hardening. (JE 1:224). Dr. Gause opined that Mr. Carson likely reached maximum medical improvement ("MMI") for the left lower extremity, but that he had not reached MMI for the right lower extremity. (JE 1:224).

On May 29, 2019, Mr. Carson returned to Dr. King's office complaining of pain in the SI joint radiating into the left upper back and left lower neck. (JE 4:24-25). Mr. Carson blamed his pain on trying to balance while standing. (JE 4:24). Mr. Carson told Dr. King that when he stood for long periods of time, he constantly rocked back and forth to keep his balance. (JE 4:24). Dr. King provided Mr. Carson with an adjustment. (JE 4:24).

Dr. King examined Mr. Carson again on June 3, 2019, for pain in Mr. Carson's left SI joint. (JE 4:26-27). Mr. Carson reported that the pain improved since his last visit. (JE 4:26). Mr. Carson continued to report pain in the left CT junction. (JE 4:26). Mr. Carson reported pain of 0 to 1 out of 10 during his visit. (JE 4:26). At the worst, his pain was 2 to 3 out of 10. (JE 4:26).

On June 10, 2019, Dr. King re-examined Mr. Carson. (JE 4:28-29). Mr. Carson told Dr. King that the SI joints were not bothering him, but that he had pain in the left mid back and around the CT junction area. (JE 4:28). Mr. Carson indicated his pain during the examination was 0 to 1 out of 10, and 2 out of 10 at the worst. (JE 4:28). Dr. King completed some adjustments to Mr. Carson. (JE 4:28).

Mr. Carson reported to Apex Network Physical Therapy on June 21, 2019, for a functional capacity evaluation ("FCE"). (DE F:1-11). Andy Vitale, OTR/L, CFCE, conducted the FCE. (DE F:2). Mr. Vitale indicated that Mr. Carson gave adequate effort. (DE F:2). Mr. Carson displayed limitations in maximum lifting and carrying, tolerance to continuous standing, tolerance to prolonged walking, tolerance to repetitive squatting/kneeling, and overall work endurance. (DE F:2). Mr. Carson reported low back pain during the evaluation, which he attributed to his altered gait pattern. (DE F:2). During the FCE, Mr. Carson lifted 60 pounds from the floor to the waist, which placed Mr. Carson in the heavy demand physical demand level. (DE F:2). Mr. Carson told Mr. Vitale that he had limitation in balance while standing. (DE F:4). He could stand for 60 minutes and walk for a maximum of 30 minutes. (DE F:4). His symptoms increased due to prolonged standing and walking. (DE F:4). After four minutes of continuous walking, Mr. Carson displayed an increased right antalgic gait. (DE F:8). Mr. Carson could lift 60 pounds from the floor to his waist, and from his waist to his shoulders. (DE F:10). He also could lift 55 pounds from 12 inches to his waist. (DE F:10). He could carry 50 pounds. (DE F:10). Finally, Mr. Carson had a maximum safe lifting ability from his shoulder to over his head. (DE F:10). Repetitive squatting caused Mr. Carson's left leg to tremor. (DE F:11). Mr. Carson reported an increase in lower back pain with repetitive pushing and pulling. (DE F:11). Mr. Vitale opined that Mr. Carson could function in a heavy physical demand level position. (DE F:2).

On July 3, 2019, Dr. Gause examined Mr. Carson again. (JE 1:225-226). Dr. Gause opined that Mr. Carson reached MMI for both feet. (JE 1:225). He reviewed the FCE. (JE 1:225). Dr. Gause provided a prescription for repeat alteration of the claimant's insert. (JE 1:226). Dr. Gause opined that Mr. Carson needed to have his filler increased to the back of the level of his foot. (JE 1:226). Dr. Gause opined that Mr. Carson's permanent restrictions were: no lifting from the floor to the waist greater than 60 pounds, no 12-inch lifting greater than 55 pounds, no waist to shoulder lifting greater than 60 pounds, no shoulder to overhead lifting greater than 35 pounds, no carrying over 50 pounds, no pushing over 13 pounds of force, and no pulling over 86 pounds of force. (JE 1:226). Dr. Gause also noted that Mr. Carson should alternate sitting to standing as tolerated. (JE 1:226).

Dr. Gause issued a "statement" after the July 3, 2019, visit. (CE 5:1). Dr. Gause expressed agreement with Dr. Gerdes-Boelens' statement dated October 25, 2018, in which she opined that Mr. Carson's altered gait caused his right foot conditions. (CE 5:1). Dr. Gause also opined that Mr. Carson reached MMI for his right foot issue. (CE 5:1). Dr. Gause concluded that an FCE would best address any permanent restrictions. (CE 5:1). Dr. Gause noted that Mr. Carson had difficulty standing and lifting. (CE 5:1).

Mr. Carson began treatment with Idol Mitchell, D.P.M., on August 12, 2019. (JE 2:1). Dr. Mitchell noted Mr. Carson's lengthy treatment history with regard to his feet, and his history of diabetes. (JE 2:1). Mr. Carson complained of pain in the left arch and heel. (JE 2:1). Mr. Carson indicated that his previously prescribed inserts were not working well, and that he wanted new inserts for his shoes. (JE 2:1). His right and left foot had no lesions or wounds. (JE 2:1). Dr. Mitchell did see lesions to the pretibial area, which the doctor recommended treating. (JE 2:1). Dr. Mitchell examined the insoles and indicated some deficiencies with them. (JE 2:2). Dr. Mitchell provided some modifications to the inserts until new custom inserts could be made. (JE 2:2). Dr. Mitchell continued to recommend daily foot inspection to make sure that none of the changes caused any additional pressure. (JE 2:3).

Mr. Carson also reported to Dr. King's clinic on August 12, 2019. (JE 4:30-31). Mr. Carson felt that his hips were uneven again. (JE 4:30). Mr. Carson told Dr. King that he was hobbling around, affecting his SI joints. (JE 4:30). Dr. King continued to opine that Mr. Carson had a good prognosis. (JE 4:30).

Mr. Carson attended another FCE on August 27, 2019, with WorkWell. (CE 2:1-11). Daryl Short, DPT, conducted the FCE. (CE 2:3). Mr. Short opined that Mr. Carson gave a consistent effort and performance on all test items. (CE 2:1). At the outset of the FCE, Mr. Carson rated his pain 0 out of 10 in his feet. (CE 2:2). The pain level did not increase as the exam progressed. (CE 2:2). Mr. Short opined that Mr. Carson had slight or no limitations in sitting. (CE 2:2). Mr. Carson had slight to some limitations with standing work and walking. (CE 2:2). Mr. Carson had some limitations with: elevated work, forward bent standing, kneeling, stairs with handrail, lifting to the waist from the floor of up to 25 pounds, lifting from the waist to the crown up to 15 pounds, and front carrying up to 25 pounds up to 50 feet. (CE 2:2). Mr. Carson had significant limitations in lifting to the waist from the floor up to 35 pounds, lifting from the waist to the crown up to 25 pounds, and front carrying up to 35 pounds up to 50 feet. (CE 2:2). Mr. Carson was unable to crouch. (CE 2:2).

Upon examination, Mr. Carson displayed reduced range of motion with right lateral flexion, left lateral flexion, right rotation and left rotation in the neck. (CE 2:9). Mr. Carson also displayed range of motion deficits in the trunk with extension, right and left lateral flexion, right rotation, and left rotation. (CE 2:9). Mr. Carson had reduced flexion in his right and left hips and knees. (CE 2:10). He also displayed reduced muscle strength in his hips and knees. (CE 2:10). Finally, Mr. Carson displayed significantly reduced range of motion and muscle strength in his right and left ankles. (CE 2:10).

Based upon the FCE results and the decreased range of motion, strength and endurance in the bilateral ankles, a decreased range of motion in the left foot, the amputation of the right forefoot, and Mr. Carson's decreased balance, Mr. Carson's capabilities placed him in the "lower medium" category of physical demand. (CE 2:3). Additionally, Mr. Short opined that Mr. Carson ambulated with an altered gait pattern

due to his foot issues. (CE 2:3). Specifically, Mr. Carson could not push off with his right foot due to the amputation of the right forefoot. (CE 2:3). Mr. Carson was deemed a moderate fall risk due to his foot issues. (CE 2:3). Mr. Short recommended that Mr. Carson be able to change position between sitting and standing or walking as needed due to his foot issues. (CE 2:3).

Dr. Gause responded to a check-box letter from the claimant's attorney on September 4, 2019, indicating that Mr. Carson may benefit from continued chiropractic care and treatment with a podiatrist due to his work-related injury. (CE 5:2).

Dr. Mitchell examined Mr. Carson again on September 9, 2019. (JE 2:4-8). After modifications to his insert at the last visit, his foot pain improved. (JE 2:4). Mr. Carson reported no pain to his right foot. (JE 2:4). Mr. Carson continued to have issues with balance, but reported being able to work on his hunting tree stands. (JE 2:4). Dr. Mitchell found no lesions, wounds, or distinct areas of pressure on Mr. Carson's left or right foot. (JE 2:5). Dr. Mitchell performed additional maintenance to the left insole to remove the remaining pressure point which Mr. Carson indicated caused him discomfort. (JE 2:8).

On September 16, 2019, Dr. Gause issued an addendum to his previous records. (JE 1:225). He opined that Mr. Carson suffered an impairment of 57 percent to his right foot, or 40 percent to his right lower extremity, or 16 percent of the whole person. (JE 1:225). He provided a rating of 0 percent to the left lower extremity. (JE 1:225). He also responded to a letter from claimant's counsel after reviewing the FCE results. (CE 5:3). He agreed that the findings of the FCE should be permanent restrictions associated with Mr. Carson's work injuries. (CE 5:3).

On October 14, 2019, Dr. King re-examined Mr. Carson. (JE 4:32-33). Mr. Carson complained of severe pain in the bilateral SI joint for several months. (JE 4:32). He told Dr. King that he "wanted to get back in but could not get any visits approved." (JE 4:32). Mr. Carson indicated that his pain during the visit was 3 out of 10. (JE 4:32). At its worst, the pain was 4 out of 10. (JE 4:32). Dr. King performed some chiropractic adjustments. (JE 4:32-33).

Mr. Carson returned to Dr. Mitchell's office on October 23, 2019. (JE 2:9-15). Dr. Mitchell provided accommodations to the inserts or insoles. (JE 2:9). Mr. Carson continued to have pain in his left foot, but no longer had pressure points. (JE 2:9). He had a slight problem at the "sub-first" where a previous surgical intervention occurred. (JE 2:9). Dr. Mitchell noted slight hyperkeratosis at the plantar left first where there was a previous incision line; however, Dr. Mitchell found no signs of tissue breakdown. (JE 2:13). Dr. Mitchell recommended continued daily foot inspection and prescribed new inserts. (JE 2:14).

On November 8, 2019, Mr. Carson reported to Comprehensive Prosthetics and Orthotics in Peoria, Illinois. (JE 6:1-2). The provider took impressions and indicated that custom made inserts would be fabricated from those impressions. (JE 6:1). The

goal of the orthotics was to provide contact support to the plantar surface of Mr. Carson's feet to distribute force equally over the skin. (JE 6:1). The orthotic should also provide cushion and shock absorption. (JE 6:2). Finally, the provider noted that the orthotic should provide biomechanical alignment modifications to place the foot in a neutral position. (JE 6:2).

James Milani, D.O., examined Mr. Carson on November 11, 2019, at Great River Business Health. (JE 1:231-233). Mr. Carson complained of low back pain. (JE 1:231). Mr. Carson told Dr. Milani, "I've had 3 foot surgeries so I have a half foot on the right so I have been walking funny because insurance won't approve my new insoles and now my left leg is going numb and left hip hurts into the back." (JE 1:231). Dr. Milani noted that Mr. Carson's primary areas of concern were pain in the low back, left leg, left hip, and right hip. (JE 1:231). Mr. Carson claimed that the problem began on December 27, 2017. (JE 1:231). Mr. Carson rated his pain 5 out of 10. (JE 1:231). Dr. Milani noted that Mr. Carson changed positions and walked cautiously due to his bilateral foot deformities and paresthesias. (JE 1:232). He also noted that Mr. Carson frequently checked his balance while standing. (JE 1:232). Upon examination of Mr. Carson's lumbar spine, Dr. Milani found a normal active range of motion with no radicular signs. (JE 1:232). Palpation to the left hip showed tenderness and tightness in the buttocks region. (JE 1:232). Dr. Milani diagnosed Mr. Carson with pain in his left hip and recommended that he take 1000 mg of Tylenol three times per day. (JE 1:232). He also recommended heat and stretching of the hip area two to four times per day, and that Mr. Carson should seek chiropractic care for the left hip area. (JE 1:232). Dr. Milani opined that "it is an unsupportable myth that favoring one lower extremity will result in injury or illness of the opposite limb." (JE 1:233). He further opined that "no injury has taken place." (JE 1:233). Finally, he noted that treatment for Mr. Carson's left hip was a short-term, non-chronic treatment process. (JE 1:233). Dr. Milani offered no new restrictions beyond those already in place. (JE 1:235).

On November 20, 2019, Mr. Carson returned to Dr. King's office. (JE 4:34-35). Mr. Carson complained of worsening pain in the SI joints. (JE 4:34). Sitting aggravated Mr. Carson's pain. (JE 4:34). He indicated a new occurrence of numbness in his left leg from the hip to the foot. (JE 4:34). Dr. King provided chiropractic care, and opined that Mr. Carson had a good prognosis. (JE 4:34).

Mr. Carson followed up with Dr. Mitchell on November 21, 2019, noting a blister on the bottom of his left foot. (JE 2:16-21). Upon examination, Dr. Mitchell noted hyperkeratosis at the plantar left first with a subdermal hemorrhage, which developed a vesicle over the lateral aspect. (JE 2:19). Dr. Mitchell noted no signs of infection. (JE 2:19). Dr. Mitchell debrided the lesion of the left foot and flushed it with saline. (JE 2:20). Dr. Mitchell counseled Mr. Carson as to the signs of infection and recommended a daily dressing change. (JE 2:21).

Mr. Carson continued treatment with Dr. King on November 22, 2019, for complaints of continued SI joint pain. (JE 4:36-37). During the appointment, Mr.

Carson reported pain at 3 out of 10. (JE 4:36). Mr. Carson's pain was 7 to 8 out of 10 at the worst. (JE 4:36). Dr. King provided treatment, and opined that Mr. Carson continued to have a good prognosis. (JE 4:36).

On November 25, 2019, Dr. King examined Mr. Carson again. (JE 4:38-39). Mr. Carson continued to complain of soreness in the SI joints, and numbness in his left leg. (JE 4:38). Overall, Mr. Carson felt he was improving. (JE 4:38). Mr. Carson felt as though he was readjusting to his "pelvis being back in place." (JE 4:38).

Mr. Carson continued to follow up with Dr. King on December 2, 2019, for chiropractic care. (JE 4:40-41). Mr. Carson reported ongoing pain in his SI joints. (JE 4:40). If Mr. Carson sat for too long, he reported that his back hurt. (JE 4:40). If he walked for too long, Mr. Carson's leg would go numb. (JE 4:40). Dr. King performed additional chiropractic adjustments and care. (JE 4:40-41).

John Kuhnlein, D.O., M.P.H., F.A.C.P.M., F.A.C.O.E.M., issued an IME report on December 3, 2019, based upon an examination of Mr. Carson performed on November 12, 2019. (CE 3:1-14). Dr. Kuhnlein is board certified in occupational and environmental medicine. (CE 3:12). Mr. Carson related various aspects of his job with the defendant employer to Dr. Kuhnlein. (CE 3:1-2). Dr. Kuhnlein then reviewed the records of Mr. Carson's treatment to date. (CE 3:2-6). Mr. Carson told Dr. Kuhnlein that he had left buttock pain radiating proximally to his back. (CE 3:6). He also described numbness and tingling to his entire left leg from the groin through the buttock to the left foot. (CE 3:6). He noted numbness to the left foot as well. (CE 3:6). Mr. Carson had no symptoms to his right foot. (CE 3:6). Dr. Kuhnlein took note of Dr. Gause's restrictions. (CE 3:6). Mr. Carson told Dr. Kuhnlein that he had problems traveling, writing, standing, sitting, reclining, walking, climbing stairs, and handling materials. (CE 3:6). Mr. Carson slept for about four hours per night. (CE 3:7). He continued to be limited in his hobbies. (CE 3:7). Mr. Carson also noted that his back symptoms worsened over the last six months. (CE 3:6).

Dr. Kuhnlein observed Mr. Carson move about the examination room with a limp. (CE 3:7). Mr. Carson also walked with an "unsteady heel gait." (CE 3:7). Upon squatting, Mr. Carson complained of stiffness in the left hip. (CE 3:7). His lumbar range of motion was pain free, but he had tenderness near L5-S1. (CE 3:8). Mr. Carson also complained of left sacroiliac joint tenderness. (CE 3:8). Dr. Kuhnlein found that Mr. Carson's pelvis remained level. (CE 3:8).

Dr. Kuhnlein diagnosed Mr. Carson as follows: abscess of the left distal foot with a January 11, 2018, irrigation and debridement, abscess of the left medial heel with a July 17, 2018, irrigation and debridement, a chronic right foot ulcer suggestive of osteomyelitis with a January 15, 2019, right midtarsal amputation revision and right midfoot ulcer debridement, diabetes, and complaints of musculoskeletal low back pain. (CE 3:9). Dr. Kuhnlein indicated that the pain radiating down Mr. Carson's left leg was more likely than not related to diabetic polyneuropathy, and a possibility of left piriformis syndrome. (CE 3:9). Dr. Kuhnlein opined that Mr. Carson's left foot wound was caused

by a December 27, 2017 work injury, which was complicated by Mr. Carson's poorly controlled diabetes. (CE 3:9). Mr. Carson told Dr. Kuhnlein that the CAM boot on the left foot caused him to walk in an off manner, and that the boot wore on his right heel. (CE 3:9). Dr. Kuhnlein opined that, if the history presented by Mr. Carson is accurate, the right foot issue and resulting surgery is a sequela to the work-related left foot injury. (CE 3:10). Mr. Carson's poorly controlled diabetes contributed to this. (CE 3:9). Dr. Kuhnlein opined that Mr. Carson will likely develop additional foot ulcers in the future due to his diabetes and known vascular insufficiency. (CE 3:10). Finally, Dr. Kuhnlein opined that, if the history presented by Mr. Carson was accurate, Mr. Carson experienced significant gait alterations related to his foot issues. (CE 3:10). This gait alteration produced musculoskeletal low back pain complaints. (CE 3:10). Dr. Kuhnlein suggested that his examination of Mr. Carson indicated that this may be related to left piriformis syndrome. (CE 3:10). Dr. Kuhnlein noted that the low back pain "is real" and is related to gait changes. (CE 3:10). Dr. Kuhnlein related Mr. Carson's low back pain or piriformis syndrome was a sequela of the work-related left foot injury and right foot sequelae due to his gait changes. (CE 3:10).

Dr. Kuhnlein recommended new orthotics for work-related injuries if the podiatrists indicate as such. (CE 3:10). He further indicated that "at some point, the orthotics will be necessary for the pre-existing issues that Mr. Carson has had with end organ damage in both lower extremities." (CE 3:10). Dr. Kuhnlein further recommended that Mr. Carson practice good diabetic foot care and inspection. (CE 3:10). If a short course of chiropractic care did not significantly improve Mr. Carson's back pain, Dr. Kuhnlein recommended that Mr. Carson improve his core strengthening. (CE 3:11). He also suggested that Mr. Carson see a physical therapist. (CE 3:11). Dr. Kuhnlein agreed that Mr. Carson reached MMI on, or about, July 3, 2019. (CE 3:11).

Based upon Table 17-37, on page 552 of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Dr. Kuhnlein assigned a 5 percent left lower extremity impairment with a 25 percent modifier from Table 16-10. (CE 3:11). This equated to a 1 percent left lower extremity impairment and a 0 percent whole person impairment rating. (CE 3:11). Dr. Kuhnlein asserted the same judgment and ratings for the left heel lesion, and assigned a 1 percent left lower extremity rating for sensory deficits to the left heel. (CE 3:11). This converted to a 0 percent whole person impairment rating. (CE 3:11). Dr. Kuhnlein agreed with the rating of Dr. Gause for the right foot. (CE 3:11). Dr. Kuhnlein noted that the right foot amputation was a revision to a previous mid-foot amputation. (CE 3:11). Due to this issue, Dr. Kuhnlein indicated that there may be apportionment. (CE 3:11). Overall, Dr. Kuhnlein assigned a 40 percent lower extremity impairment rating to the right foot, which converted to a 16 percent whole person impairment rating. (CE 3:11). Dr. Kuhnlein utilized Table 15-3 from the AMA Guides in issuing a DRE Lumbar Category I and II and a 3 percent whole person impairment due to the lumbar issues. (CE 3:11). Due to potential apportionment, Dr. Kuhnlein did not endeavor to issue a combined whole person impairment rating. (CE 3:12). Finally, Dr. Kuhnlein noted that he agreed with the

findings of the FCE with regard to Mr. Carson's functional abilities. (CE 3:12). Dr. Kuhnlein opined that Mr. Carson should not work off ground level or on uneven surfaces. (CE 3:12). He finally recommended "very good fitting footgear" with "appropriate orthotics" to prevent further injuries. (CE 3:12).

On December 4, 2019, Mr. Carson presented to Dr. King's clinic with the same complaints as his December 2, 2019, visit. (JE 4:42-43). His current pain was 2 out of 10. (JE 4:42). His pain at worst was 7 to 8 out of 10. (JE 4:42). Dr. King opined that Mr. Carson continued to have a good prognosis. (JE 4:42).

Mr. Carson presented to Dr. King's office again on December 6, 2019. (JE 4:44-45). His pain was the same as his previous visit. (JE 4:44-45). Dr. King provided chiropractic care. (JE 4:44-45).

On December 9, 2019, Mr. Carson returned to Dr. Milani's office for continued complaints of lower back pain. (JE 1:236-237). He also complained of left hip pain. (JE 1:236). Mr. Carson indicated that the pain was constant and made worse by any movement. (JE 1:236). Chiropractic therapy, heat, and Tylenol provided some relief of the pain. (JE 1:236). Mr. Carson indicated that most of the pain is in the left PSIS region of his lower back. (JE 1:236). Dr. Milani continued to diagnose Mr. Carson with pain in his left hip. (JE 1:237). Dr. Milani advised Mr. Carson to finish chiropractic care. (JE 1:237). Dr. Milani opined that Mr. Carson's new gait would remain chronic and that Mr. Carson should learn gait mechanics and stretching and strengthening exercises to help with his new gait. (JE 1:237). Dr. Milani further opined that the new gait was not causing any injury or damage, but that Mr. Carson was using his muscles differently. (JE 1:237). Dr. Milani did not opine on any further restrictions. (JE 1:240).

Dr. King also saw Mr. Carson on December 9, 2019. (JE 4:46-47). Mr. Carson indicated improvement since his last visit, but noted mild soreness to the touch in the lower lumbar spine. (JE 4:46). Mr. Carson reported pain of 0 out of 10 during the examination. (JE 4:46). His pain at worst was 4 out of 10. (JE 4:46). Dr. King indicated that Mr. Carson progressed well and had a good prognosis. (JE 4:46).

Mr. Carson had imaging, as ordered by Dr. Gause, on December 11, 2019, at Great River Medical Specialists. (JE 1:241). A weightbearing x-ray of the left hip showed no evidence of significant internal derangement. (JE 1:241). The left SI joint also remained within normal limits. (JE 1:241). Dr. Gause examined him on the same day. (JE 1:241). Mr. Carson told Dr. Gause that the pain in his left hip began in 2017, after the right foot surgery. (JE 1:241). He claimed that being in the CAM boot "impacted" his left hip. (JE 1:241). Upon examination, Dr. Gause found musculoskeletal discomfort along the left lower lumbar region, which Dr. Gause opined was a spasm. (JE 1:243). Like Dr. Milani, Dr. Gause diagnosed Mr. Carson with left hip pain. (JE 1:243). Dr. Gause recommended new inserts and gait training through physical therapy. (JE 1:243). He also recommended that Mr. Carson continue his chiropractic care. (JE 1:243).

On December 16, 2019, Mr. Carson visited Dr. King, and indicated that he was doing well. (JE 4:48). He complained of pain of 2 out of 10 at the examination, and 3 to 4 out of 10 at the worst. (JE 4:48). Dr. King performed additional chiropractic care. (JE 4:48).

Mr. Carson returned to Dr. King's clinic on December 23, 2019. (JE 4:49-50). Mr. Carson reported only having pain in the SI joints and not in the lumbar spine or into the buttock or legs. (JE 4:49). Dr. King continued to opine that Mr. Carson had a good prognosis. (JE 4:49).

Mr. Carson reported to physical therapy on December 26, 2019. (JE 1:246-247). Neil A. Paslawski, P.T., D.P.T., examined Mr. Carson. (JE 1:246). Mr. Carson continued to complain of left hip pain and back pain. (JE 1:247, 252). Mr. Carson had an altered gait due to his right transmetatarsal amputation. (JE 1:251). Mr. Paslawski opined that Mr. Carson would benefit from education on core strengthening and lower body strengthening with functional movement education. (JE 1:251).

On December 30, 2019, Mr. Carson returned to Dr. Mitchell's office for his continued feet issues. (JE 2:22-27). Mr. Carson reported dropping a can on his left second toe, which caused the toenail to fall off two days prior. (JE 2:22). Mr. Carson continued to have ulceration of the left lower foot at the first MTPJ. (JE 2:26). The ulceration did not show signs of infection. (JE 2:26). The left second toe had a loss of nail and localized inflammation, but it did not appear to be infected. (JE 2:26). Dr. Mitchell debrided the ulceration and applied a dressing. (JE 2:27).

Mr. Carson also had another visit with Dr. King on December 30, 2019. (JE 4:51-52). He complained of "some" pain in the left SI joint. (JE 4:51). Dr. King provided some additional chiropractic care. (JE 4:51-52).

Mr. Paslawski saw Mr. Carson for physical therapy again on January 2, 2020. (JE 1:246). Mr. Paslawski progressed Mr. Carson on his home exercise plan. (JE 1:246). Mr. Paslawski told Mr. Carson to progress his exercises slowly, and to find his balance point for performance. (JE 1:246).

On January 6, 2020, Mr. Carson returned to Great River Business Health for a repeat examination by Dr. Milani. (JE 1:257-258). Mr. Carson had pain located in his left leg and left foot. (JE 1:257). He felt that his pain was constant. (JE 1:257). Being on his feet too long caused worsening of his pain. (JE 1:257). Tylenol helped decrease his pain. (JE 1:257). Dr. Milani found that Mr. Carson had limited forward flexion due to balance and the sensation of falling forward due to a partial amputation of his right foot. (JE 1:258). Dr. Milani opined that Mr. Carson would have an adjustment period once he received his insoles. (JE 1:258). Dr. Milani further noted that Mr. Carson did not have a specific back injury, but that he had symptoms associated with a change in gait or ambulation. (JE 1:258). Dr. Milani anticipated that this would stabilize once Mr. Carson received his orthotics or insoles. (JE 1:258).

On January 9, 2020, Dr. Gause issued another statement. (CE 5:4). He indicated that he stood by the opinions in his July 3, 2019 report. (CE 5:4). He agreed that the surgery of January 15, 2019, resulted in a permanent impairment, but did not quantify the amount. (CE 5:4). While he did not directly participate in the care for Mr. Carson's left foot, he opined that Dr. Gerdes-Boelens' treatment resulted in limitations. (CE 5:4).

Mr. Paslawski discharged Mr. Carson from physical therapy on January 14, 2020. (JE 1:259-260). Mr. Paslawski opined that Mr. Carson would benefit from an orthotic consultation to support his right residual foot. (JE 1:259).

On January 17, 2020, Dr. King examined Mr. Carson again. (JE 4:53-54). Mr. Carson continued to have pain in the left SI joint, which radiated up the left side of his back into his lower neck. (JE 4:53). Stretching exercises from physical therapy helped. (JE 4:53). He rated his pain 4 out of 10 during the visit, and 6 out of 10 at the worst. (JE 4:53).

On January 20, 2020, Dr. Mitchell re-examined Mr. Carson. (JE 2:28-32). Mr. Carson continued to perform daily dressing changes on the left foot ulceration and indicated to Dr. Mitchell that his ulceration seemed to be healing. (JE 2:28). Mr. Carson also reported working on obtaining new shoe inserts. (JE 2:28). Dr. Mitchell opined that Mr. Carson had no signs of infection of the left foot. (JE 2:31). Dr. Mitchell debrided the left foot ulcer and applied a gentamicin cream dressing. (JE 2:32).

Dr. King treated Mr. Carson for pain in the left SI joint again on January 24, 2020. (JE 4:55-56). Mr. Carson indicated that he was approved for orthotic insoles for his shoes. (JE 4:55). Dr. King opined that once Mr. Carson had a stable foundation under his feet, his gait and pain should improve. (JE 4:55).

On January 31, 2020, Dr. King met with Mr. Carson again. (JE 4:57-58). Mr. King still awaited his insoles. (JE 4:57). Chiropractic care provided an improvement in pain after an adjustment. (JE 4:57). Mr. Carson's prognosis remained good according to Dr. King. (JE 4:57).

Mr. Carson followed up with Dr. Mitchell on February 5, 2020, regarding his left plantar ulcer. (JE 2:34-39). Mr. Carson continued to perform daily dressing changes and applied gentamicin. (JE 2:34). He awaited his new shoe insert. (JE 2:34). Upon examination, Dr. Mitchell found that the ulceration increased in size, but showed no signs of infection. (JE 2:37). Dr. Mitchell debrided the left foot ulceration using a scalpel and topical anesthesia. (JE 2:38). Dr. Mitchell applied a dressing with gentamicin. (JE 2:38). Dr. Mitchell recommended that Mr. Carson follow up at the wound care clinic for his next visit. (JE 2:38).

On February 7, 2020, Mr. Carson returned to Dr. King's clinic. (JE 4:59-60). Mr. Carson indicated that he had a sore on his foot. (JE 4:59). Mr. Carson blamed this on

his lack of insoles. (JE 4:59). Mr. Carson told Dr. King that chiropractic adjustments help for two to three days. (JE 4:59).

Dr. Kuhnlein issued a supplemental opinion to his IME report on February 7, 2020. (CE 4:1). Dr. Kuhnlein noted that Mr. Carson had an overall 40 percent impairment to his right lower extremity due to his midfoot amputation. (CE 4:1). He emphasized that the revision in this case would lead him to assign a 2 percent right lower extremity rating for the amputation revision. (CE 4:1). This converts to a 1 percent whole person impairment rating. (CE 4:1). Finally, Dr. Kuhnlein combined the whole person impairment ratings and arrived at a 4 percent whole person impairment rating. (CE 4:1).

Dr. Milani examined Mr. Carson again on February 10, 2020. (JE 1:261-263). Mr. Carson continued to complain of low back pain. (JE 1:261). Mr. Carson told Dr. Milani that he felt that his pain was getting worse and radiated up his back to his neck. (JE 1:261). Chiropractic care improved his pain, but it would return in two to three days. (JE 1:261). He continued to have issues with standing and doing exercises due to balance issues. (JE 1:261). Dr. Milani recommended that Mr. Carson continue with the previous restrictions. (JE 1:261).

On February 12, 2020, Mr. Carson returned to Comprehensive Prosthetics and Orthotics. (JE 6:2-3). His right "FO" - partial foot and left full "FO" as prescribed by Dr. Mitchell were ready for delivery and fitting. (JE 6:2-3). After placing the inserts, Mr. Carson ambulated around the facility. (JE 6:3). Amanda Smith from Comprehensive Prosthetics and Orthotics observed Mr. Carson walking through the facility. (JE 6:3). His balance appeared "very good," and heel slippage was within normal limits. (JE 6:3). Mr. Carson told Ms. Smith that the inserts "felt really good." (JE 6:3).

Mr. Carson met with Dr. King again on February 14, 2020. (JE 4:61-62). Mr. Carson received his inserts and felt more level since using them. (JE 4:61). He noticed leg soreness but opined that this was "just his body adapting to the new foundation." (JE 4:61). His pain was 2 out of 10 during the appointment, and 4 to 5 out of 10 at the worst. (JE 4:61).

On February 19, 2020, Mr. Carson returned to Dr. Mitchell's office. (JE 2:40-46). Mr. Carson continued to have a left foot plantar ulceration. (JE 2:41). He was unsure if the wound deepened, or if his foot was swollen. (JE 2:41). Mr. Carson observed clear drainage when he performed his daily dressing changes. (JE 2:41). He told Dr. Mitchell that he received his custom insoles. (JE 2:41). Dr. Mitchell observed some inflammation surrounding the ulceration, which could indicate infection. (JE 2:44). Dr. Mitchell debrided the left foot ulceration and took a culture. (JE 2:45). Dr. Mitchell applied a Prisma dressing. (JE 2:45). Dr. Mitchell told Mr. Carson to be 100 percent nonweightbearing and change his dressing on a daily basis. (JE 2:45).

On February 21, 2020, Dr. King examined Mr. Carson. (JE 4:63-64). Mr. Carson reported that his health was deteriorating. (JE 4:63). Despite these issues, his lower

back and SI joints were improving. (JE 4:63). Mr. Carson reported pain of 1 to 2 out of 10 on the day of the visit, and 3 out of 10 at the worst. (JE 4:63). Dr. King provided Mr. Carson with chiropractic care. (JE 4:63).

Mr. Carson continued his care with Dr. Mitchell on February 25, 2020. (JE 2:56-60). Mr. Carson used crutches to remain nonweightbearing. (JE 2:56). Mr. Carson told Dr. Mitchell that his foot felt good, and that the redness in the foot resolved. (JE 2:56). Upon examination, Dr. Mitchell found improvement to the localized swelling. (JE 2:59). Dr. Mitchell instructed Mr. Carson to remain nonweightbearing on his left foot. (JE 2:59). Dr. Mitchell debrided the left foot ulceration and placed a collagenase dressing. (JE 2:60).

Mr. Carson returned to Comprehensive Prosthetics and Orthotics on February 27, 2020, noting that he felt like his left side remained lower than his right side. (JE 6:3). Ms. Smith added a piece of material under the inserts, which Mr. Carson told her felt "much better." (JE 6:3).

On March 4, 2020, Mr. Carson visited with Jennifer Bollinger, R.N. (JE 2:61-62). Mr. Carson continued to change the dressing several times per day, and also continued to use crutches to ambulate. (JE 2:61). Ms. Bollinger changed the dressing. (JE 2:61).

Mr. Carson returned for wound care on March 11, 2020, with Tracy Iversen, R.N. (JE 2:63-64). Mr. Carson was not taking any diabetic medications. (JE 2:63). Ms. Iversen noted that Mr. Carson's left foot wound showed a small amount of drainage. (JE 2:63). Mr. Carson continued to change his dressing several times per day. (JE 2:63).

Dr. Mitchell examined Mr. Carson again on March 16, 2020. (JE 2:51-54). Mr. Carson continued to have a deep, full-thickness ulceration of the left plantar foot. (JE 2:53). Dr. Mitchell noted localized swelling and erythema, but that they improved. (JE 2:53). The wound continued to improve, but Dr. Mitchell opined that it was a dangerous level of depth. (JE 2:53). Dr. Mitchell debrided the wound and applied a dressing with collagenase. (JE 2:54). Dr. Mitchell continued to recommend that Mr. Carson remain nonweightbearing. (JE 2:54). Dr. Mitchell opined that Mr. Carson remained at "significant risk of amputation." (JE 2:54).

Ms. Bollinger changed the dressing again on March 23, 2020. (JE 2:71-72). Ms. Bollinger noted that Dr. Mitchell planned to place a placental graft on the wound in April of 2020. (JE 2:71). Mr. Carson reported taking no diabetic medications, and also indicated that he was not monitoring his blood glucose. (JE 2:71).

Dr. Mitchell issued a statement on March 30, 2020. (CE 6:1). Mr. Carson's left foot problems caused him to be more susceptible to infection and wound opening. (CE 6:1). Dr. Mitchell opined that Mr. Carson needed appropriate orthotics, and a lack of appropriate orthotics made Mr. Carson more susceptible to infection, blistering, and wound opening. (CE 6:1). Dr. Mitchell opined that "a substantial contributing factor to

Mr. Carson's left foot issue and need for care at my office is the original work-related injury and the care associated with that work-related injury on the left foot—along with the lack of proper orthotics." (CE 6:1).

On April 1, 2020, Mr. Carson returned to Dr. Mitchell's office for continued care of his left plantar foot ulceration. (JE 2:73-78). Mr. Carson continued making daily dressing changes. (JE 2:73). Mr. Carson remained off his foot "most of the time." (JE 2:73). Dr. Mitchell noted that Mr. Carson continued to have serous drainage from his left foot ulceration. (JE 2:76). Dr. Mitchell continued to recommend that Mr. Carson remain nonweightbearing on the left foot. (JE 2:76). Dr. Mitchell debrided the left plantar ulceration and applied a Prisma dressing. (JE 2:78). Dr. Mitchell discussed the condition with Mr. Carson and indicated a concern that Mr. Carson may have had a perforation of the joint, which could necessitate amputation of the toe. (JE 2:78). Dr. Mitchell recommended additional imaging. (JE 2:78).

Mr. Carson began treatment at Blessing Wound Center on April 7, 2020, for a diabetic ulcer to the left foot. (JE 3:1-7). Duane Hanzel, D.P.M. examined Mr. Carson, and reviewed his health history. (JE 3:2-4). Besides his left foot ulceration, Mr. Carson complained of back ache, muscle pain, an abnormal gait, and numbness. (JE 3:4). The periwound skin does not show signs or symptoms of infection. (JE 3:5). Dr. Hanzel debrided the left plantar foot wound. (JE 3:6). He applied Prisma and then dry gauze to the wound site. (JE 3:6). Dr. Hanzel instructed Mr. Carson to change the dressing on a daily basis, and limit walking to only the necessary situations. (JE 3:6). Dr. Hanzel testified in his deposition that weight bearing was a "major" factor in the development of Mr. Carson's additional wound. (Defendants' Exhibit A:6).

On April 21, 2020, Mr. Carson returned to Dr. Hanzel's office at Blessing Wound Center. (JE 3:8-14). The wound remained unhealed. (JE 3:8). The wound continued to drain. (JE 3:11). Dr. Hanzel opined that the wound improved. (JE 3:12). The old wound dressing was removed, and a skin substitute procedure was performed. (JE 3:13). Dr. Hanzel continued to recommend that Mr. Carson keep his walking to only necessary situations. (JE 3:13).

Mr. Carson returned to Blessing Wound Center on April 28, 2020. (JE 3:15-21). Dr. Hanzel examined Mr. Carson's left foot plantar ulceration. (JE 3:15). Mr. Carson continued to show no signs of infection. (JE 3:18). Dr. Hanzel cleaned the wound and applied Prisma with dry gauze. (JE 3:20). He again instructed Mr. Carson to limit his walking to only necessary situations. (JE 3:20).

On May 12, 2020, Dr. Hanzel indicated that Mr. Carson's condition was unsatisfactory for any work at the time. (JE 3:30). Dr. Hanzel required Mr. Carson to remain in an offloading shoe with only a limited time walking or standing. (JE 3:30). Dr. Hanzel recommended chiropractic care for a back adjustment due to Mr. Carson's uneven gait. (JE 3:30).

Mr. Carson returned to Blessing Wound Center on May 19, 2020. (JE 3:31-35). Dr. Hanzel indicated that Mr. Carson continued to have a left foot ulcer with no infection. (JE 3:32). The wound bed had a 76 percent to 100 percent pink spongy granulation. (JE 3:33). Dr. Hanzel opined that the wound was deteriorating. (JE 3:33).

On May 26, 2020, Dr. Hanzel opined that Mr. Carson's condition remained unsatisfactory for any work at the time. (JE 3:36). Dr. Hanzel examined Mr. Carson's left foot wound. (JE 3:37-41). Dr. Hanzel noted no signs of infection and applied PriMatrix. (JE 3:38). Dr. Hanzel opined that the wound continued to deteriorate. (JE 3:39).

Mr. Carson returned to Dr. Hanzel's office on June 2, 2020, for continued care of his left foot. (JE 3:42-46). Dr. Hanzel opined that the left foot wound was improving. (JE 3:44). Dr. Hanzel removed the dressing, cleaned the wound, and placed a dressing on the wound. (JE 3:45). Dr. Hanzel again limited Mr. Carson's walking to only necessary situations. (JE 3:45).

On June 10, 2020, Kelsi Cunningham, A.P.N., examined Mr. Carson in the emergency department at McDonough District Hospital. (JE 2:79-82). Mr. Carson complained of back pain. (JE 2:79). Mr. Carson told Ms. Cunningham that his chronic pain to the left knee and back were due to a disproportion in height from his special shoes. (JE 2:79). He denied any changes in pain, but noted that his attorney told him to report to the emergency room. (JE 2:79). Ms. Cunningham noted that Mr. Carson ambulated with no difficulty. (JE 2:79). Mr. Carson had tenderness to the lower back, but "no spinal point tenderness." (JE 2:82). Ms. Cunningham diagnosed Mr. Carson with back pain, lumbar strain, and chronic back pain. (JE 2:82). She prescribed naproxen for his pain and recommended that he follow up with his primary care physician for further evaluation. (JE 2:82).

Mr. Carson continued his treatment with Blessing Wound Center and Dr. Hanzel on June 16, 2020. (JE 3:47-52). Dr. Hanzel indicated that Mr. Carson had no infection in his left foot. (JE 3:48). Dr. Hanzel indicated that the wound was deteriorating. (JE 3:49). Dr. Hanzel placed PriMatrix on the wound. (JE 3:50). Dr. Hanzel opined that Mr. Carson remained unsatisfactory for any work. (JE 3:50). Dr. Hanzel recommended chiropractic services for a back adjustment related to his uneven gait. (JE 3:50).

Mr. Carson followed up his emergency room visit with his primary care doctor, Richard Minter, D.O., on June 17, 2020. (JE 2:83-88). He complained of low back pain that was going off and on for the last six months or more. (JE 2:83). His left lower back pain radiated down his left leg. (JE 2:83). He wore an offloading boot to his left foot. (JE 2:83). Mr. Carson told Dr. Minter that the pain was severe and radiating. (JE 2:83). Dr. Minter observed that Mr. Carson's pelvis tilts when he stands because of the offloading boot on the left foot. (JE 2:87). His right foot also rolled over to the lateral side. (JE 2:87). Upon additional examination, Dr. Minter found that the left pelvic iliac crest was one to two inches higher than the right. (JE 2:87). This caused curvature in the lumbar vertebrae and compensation curvature in the thoracic area. (JE 2:87). Dr.

Minter stated, "[t]his patient's chronic low back pain I feel is due mostly to his unequal leg length which is …. causing elevation of that [*sic*] left pelvis leading to lumbar spinal scoliosis compensation in the thoracic area." (JE 2:88). Dr. Minter recommended x-rays and potentially decreasing the height of the offloading boot. (JE 2:88).

On June 23, 2020, Mr. Carson continued his care with Blessing Wound Clinic and Dr. Hanzel. (JE 3:53-57). Dr. Hanzel debrided the left foot ulceration and prescribed a course of antibiotics. (JE 3:54). The wound continued to improve. (JE 3:55). Dr. Hanzel opined that Mr. Carson continued to be unsatisfactory to work at any time, and that he needed to be in an offloading shoe with limited time walking or standing. (JE 3:57).

Dr. King treated Mr. Carson again on June 24, 2020, for bilateral SI joint pain, buttock pain, hip pain, and bilateral leg pain. (JE 4:65-66). Mr. Carson indicated that the pain was too much to bear, so he came to the chiropractor. (JE 4:65). Mr. Carson rated his pain 7 to 8 out of 10 during the visit, and 10 out of 10 at its worst. (JE 4:65).

On June 27, 2020, Mr. Carson visited the emergency department at Memorial Hospital in Carthage, Illinois. (JE 5:1-3). Mr. Carson complained of back pain for the last six months that worsened. (JE 5:1). Mr. Carson reported an inability to keep food down at all. (JE 5:1). The provider found several healing lesions to the bilateral lower legs and bottom of the left foot. (JE 5:3).

Mr. Carson returned to Dr. King's office on June 29, 2020, complaining of pain in the right lower thoracic area. (JE 4:67-68). The pain in the thoracic spine was worse than the pain in the SI joint or leg pain. (JE 4:67). Mr. Carson was in so much pain that he reported to the emergency room previously. (JE 4:67).

Mr. Carson continued his care with Dr. Hanzel at Blessing Wound Center on June 30, 2020. (JE 3:58-62). Mr. Carson was on antibiotics, but reported vomiting for three days. (JE 3:59). Dr. Hanzel noted that Mr. Carson would likely end up in the hospital for fluid replacement. (JE 3:59). Dr. Hanzel allowed Mr. Carson to wear a regular shoe due to back pain rather than the orthopedic wedge shoe. (JE 3:59). Dr. Hanzel debrided the ulcer of the left foot. (JE 3:61). The doctor applied a dressing and told Mr. Carson to avoid bearing weight on his left foot. (JE 3:62). Dr. Hanzel opined that Mr. Carson's condition remained unsatisfactory for any work. (JE 3:62).

On June 30, 2020, Mr. Carson also treated with Dr. King. (JE 4:69-70). Mr. Carson reported sleeping, and that his pain worsened in the left upper back and left side of his neck. (JE 4:69). Mr. Carson's pain was 4 to 5 out of 10 during the appointment, but 10 out of 10 at its worst. (JE 4:69).

On July 6, 2020, Mr. Carson went to the emergency room at McDonough District Hospital complaining of left foot swelling and redness. (JE 2:89-90). The emergency room provider diagnosed Mr. Carson with foot pain/swelling, foot puncture wound, hyperglycemia, and osteomyelitis. (JE 2:90). Mr. Carson was also instructed to follow

up with Dr. Hanzel for outpatient antibiotic infusions and placement of a PICC line. (JE 2:90).

Mr. Carson reported to Dr. King's clinic on July 8, 2020. (JE 4:71-72). Mr. Carson told Dr. King that he "just came from the hospital." (JE 4:71). Overall, his back felt better, but his pain was located in the upper back and lower neck area. (JE 4:71). Dr. King provided Mr. Carson with chiropractic care. (JE 4:71).

Mr. Carson followed up with Blessing Wound Center and Dr. Hanzel on July 14, 2020 for his left foot issues. (JE 3:63-67). The left foot wound was infected and being treated with antibiotics. (JE 3:64). The ulcer of the left foot appeared "much improved." (JE 3:64). Dr. Hanzel cleaned two wounds on Mr. Carson's left foot. (JE 3:66-67). Dr. Hanzel continued to opine that Mr. Carson's condition was unsuitable for work. (JE 3:67). Dr. Hanzel also ordered Mr. Carson to continue the antibiotics. (JE 3:67).

Dr. Hanzel also issued a statement on July 14, 2020. (CE 7:1). Mr. Carson's left foot injury caused permanent damage to the connective tissue and scarring. (CE 7:1). The permanent damage made Mr. Carson's left foot more susceptible to injury. (CE 7:1). Dr. Hanzel noted that he placed Mr. Carson in an off-load orthotic, which resulted in "significant limb length discrepancy." (CE 7:1). The limb length discrepancy caused his gait to shift and resulted in SI joint pain. (CE 7:1). Dr. Hanzel directly related this pain to the gait shift. (CE 7:1). Dr. Hanzel recommended chiropractic care, which he related to the work injury. (CE 7:1).

Dr. King treated Mr. Carson again on July 16, 2020. (JE 4:73-74). Mr. Carson reported improved pain in his upper back, lower back, and SI joints. (JE 4:73). Mr. Carson wanted to "be checked," to keep his back feeling well. (JE 4:73).

On July 21, 2020, Dr. Hanzel examined Mr. Carson again for his left foot issues. (JE 3:68-72). Mr. Carson continued to have a left foot ulcer and infection. (JE 3:69). Mr. Carson continued to take IV antibiotics. (JE 3:69). Dr. Hanzel changed the dressings on the wounds and told Mr. Carson to continue taking antibiotics. (JE 3:72). He also opined that Mr. Carson's condition made him unsatisfactory for any work at the time. (JE 3:72).

Mr. Carson returned to Dr. King's office on July 22, 2020. (JE 4:75-76). Mr. Carson continued to report pain at the lumbar spine, but that it was not as bad as previous pain. (JE 4:75). Dr. King provided Mr. Carson with chiropractic treatment. (JE 4:75).

Dr. Hanzel continued to care for Mr. Carson on July 28, 2020. (JE 3:73-77). The infection in Mr. Carson's left foot resolved. (JE 3:74). However, he continued to have ulceration of his left foot. (JE 3:74). Dr. Hanzel instructed Mr. Carson on cleaning his PICC line. (JE 3:74). If Mr. Carson had no infection after one week, Dr. Hanzel recommended removing the PICC line. (JE 3:74). Dr. Hanzel found that both left foot

wounds were improving. (JE 3:75). According to the doctor, Mr. Carson remained in an unsatisfactory condition for any work. (JE 3:76).

On August 4, 2020, Mr. Carson returned to Blessing Wound Center for repeat examination by Dr. Hanzel. (JE 3:78-82). Mr. Carson completed his course of antibiotics the week prior, and Dr. Hanzel indicated that he would remove the PICC line. (JE 3:79). Mr. Carson complained of low back pain. (JE 3:79). Dr. Hanzel recommended another prescription for chiropractic care. (JE 3:79). Dr. Hanzel recommended that he wear a Tubigrip compression on the left leg. (JE 3:82). Dr. Hanzel further opined that Mr. Carson's condition was unsatisfactory for any work. (JE 3:82).

Mr. Carson continued his care with Dr. King on August 17, 2020. (JE 4:77-78). Mr. Carson's SI joint pain improved. (JE 4:77). At times, Mr. Carson noted that he would stiffen. (JE 4:77). Mr. Carson reported pain of 2 out of 10 during the appointment, and 3 out of 10 at its worst. (JE 4:77).

On August 23, 2020, Blessing Wound Center provided a referral to King Chiropractic to evaluate and treat sciatica for two times per week for eight weeks. (JE 3:87).

Mr. Carson continued his visits to Dr. Hanzel's office on August 25, 2020. (JE 3:83-86). The infection in the left foot resolved. (JE 3:84). The ulcer remained healed. (JE 3:84). Dr. Hanzel discharged Mr. Carson from care. (JE 3:84). Mr. Carson could return to normal shoe wear with diabetic inlays. (JE 3:84). Dr. Hanzel opined that Mr. Carson reached MMI as of this time. (DE A:8).

On September 2, 2020, Mr. Carson followed up with Dr. King, noting pain starting in the left mid to upper lumbar area. (JE 4:79-80). The pain worked its way into the left upper back. (JE 4:79). Mr. Carson also felt that his pelvis was more level. (JE 4:79).

Mr. Carson had continued care with Dr. King on September 23, 2020, due to some pain across the SI joints and into his lower back. (JE 4:81-82). Mr. Carson told Dr. King that his pain was 3 out of 10 during the visit, and 5 out of 10 at its worst. (JE 4:81).

On October 27, 2020, Dr. King issued a statement. (CE 8:1-2). Dr. King acknowledged that Mr. Carson had pre-existing conditions to his lower back, but opined that Mr. Carson's condition significantly worsened. (CE 8:1). Dr. King stated that, "the longer a person goes with an altered gait, the more impact it has on the other parts of the person's body." (CE 8:2). Because of the permanently altered gait, Dr. King opined that Mr. Carson would have significant issues with respect to his lower back and SI joints. (CE 8:2).

Dr. Hanzel was deposed on December 3, 2020. (DE A:1-17). Dr. Hanzel opined that Mr. Carson's right foot condition would cause gait problems no matter what. (DE A:8). If Mr. Carson had additional left foot issues, it was possible that they could be

related to his prior left foot issues. (DE A:9). The only permanent restrictions recommended by Dr. Hanzel in his deposition were for Mr. Carson to wear protective footwear and a custom inlay. (DE A:9).

The parties deposed Dr. Kuhnlein on December 15, 2020. (DE B:1-15). Dr. Kuhnlein testified that he initially thought that the back pain was a sequela of his foot injuries and gait issues, and that it was a temporary condition. (DE B:3). He indicated that his initial impairment rating was based upon how Mr. Carson presented. (DE B:3). Dr. Kuhnlein's opinions in the initial report were based upon the belief or understanding that Mr. Carson had no back symptoms prior to his left foot work injury. (DE B:4). Dr. Kuhnlein confirmed in his deposition that when he examined Mr. Carson, Mr. Carson's back pain was related to the gait changes from his foot injuries. (DE B:8). Dr. Kuhnlein testified that after reviewing Dr. King's notes, he stood by his previous opinions. (DE B:9).

Trevor Schmitz, M.D. performed a virtual health visit and IME on Mr. Carson on January 13, 2021. (DE C:1-5). Dr. Schmitz issued a report on February 3, 2021. (DE C:1-5). Dr. Schmitz is a member of the American Academy of Orthopedic Surgeons. (DE C:1). Mr. Carson reported that his foot issues were healed, and that he wore orthotics. (DE C:1). However, he was unsure if the orthotics helped. (DE C:1). Mr. Carson reported developing low back pain in early 2018 due to wearing a CAM boot. (DE C:1). He felt that his gait was abnormal, which caused his back pain. (DE C:1). Mr. Carson admitted that he had back pain prior to his foot incidents, but was "unable to expound whether his pre-existing back pain was any different than the back pain he is currently experiencing." (DE C:1-2). Dr. Schmitz reviewed medical records. (DE C:2-4). Dr. Schmitz opined that the injuries to Mr. Carson's feet did not cause a temporary or material aggravation to Mr. Carson's prior low back issues. (DE C:4). Dr. Schmitz noted the prior records from Dr. King from 2014, 2015, and 2016 in which Mr. Carson complained of altered gait and feeling as though his legs were uneven. (DE C:4). Dr. Schmitz further opined that the foot injuries and course of treatment "in no way caused any form of injury to Mr. Carson's low back." (DE C:4). Considering his previously noted opinions, Dr. Schmitz declined to provide an impairment rating for Mr. Carson's lower back issues. (DE C:4).

On February 4, 2021, Dr. Hanzel issued another statement. (CE 7:2). Dr. Hanzel opined that Mr. Carson suffered a 17 percent impairment to the left foot due to skin loss. (CE 7:2). Dr. Hanzel further opined that Mr. Carson's work injury and treatment were a substantial contributing factor of the permanent impairment to Mr. Carson's left foot. (CE 7:2). Dr. Hanzel opined that Mr. Carson had a category 2 impairment. (CE 7:2).

On February 26, 2021, Dr. Kuhnlein issued another report to the Fund's attorney. (CE 14:1-2). Dr. Kuhnlein reviewed Dr. King's chiropractic record, and Dr. Schmitz's IME report. (CE 14:1). Dr. King's records reinforced that Mr. Carson was an accurate historian, according to Dr. Kuhnlein. (CE 14:1). Furthermore, Dr. Kuhnlein suggested

that if the employer referred Mr. Carson to Dr. Milani, who then referred Mr. Carson for additional chiropractic care, it reinforced that Mr. Carson's back problem was related to the work injury. (CE 14:1). Dr. Kuhnlein opined that Mr. Carson showed improvement to his SI joint and lower back pain when he stopped wearing the CAM boot. (CE 14:2). Dr. Kuhnlein noted, "[b]ut for the December 27, 2017, left foot injury, Mr. Carson would not have required the January 11, 2018, surgery. But for the Cam walker necessary after the surgery, his back pain would not have been aggravated as it was, leading to the chiropractic care . . . ." before his visits with Dr. Milani, and ordered by Dr. Milani. (CE 14:2). Since his new inserts improved his back pain, it was more likely than not related to the changes in Mr. Carson's left foot. (CE 14:1). Dr. Kuhnlein concluded by relating his whole person impairment rating due to the lower back condition to the December 27, 2017 work injury. (CE 14:2).

At the hearing, Mr. Carson testified that he continued to suffer from constant lower back pain. (Testimony). He noted that sitting and standing intermittently relieved the pressure. (Testimony). Once per day, he tries to stretch his lower back to strengthen his core and improve his pain. (Testimony). He rated his lower back pain a 5 to 7 out of 10. (Testimony).

His left foot stays in a shoe for most of the day. (Testimony). He wears custom orthotics for his feet. (Testimony). He contended that these are to prevent the wounds on his feet from redeveloping by keeping pressure off of his feet. (Testimony). Once he removes his shoe, his foot throbs for about one hour. (Testimony). Perhaps once per week, Mr. Carson experiences pain in his left heel. (Testimony).

Mr. Carson experiences difficulty walking and maintaining his balance. (Testimony). Due to his difficulty maintaining his balance, he felt that he could no longer lift up to 25 pounds. (Testimony). Picking things up from the floor causes him to lose his balance. (Testimony). Based upon his current condition, he felt that he could not do any of the jobs that he previously held. (Testimony). He also reported that walking on the heel of each foot has created callouses on the outside of his feet. (Testimony). He tries to use a shopping cart or something to lean on if he is at the store. (Testimony). It also takes him longer to mow his lawn. (Testimony). He is also responsible for doing the laundry, some of the cooking, and keeping his house clean. (Testimony).

Mr. Carson has not sought any employment because he could not envision any job that he could perform. (Testimony). He further testified that he is not planning on looking for work "real soon," as he was trying to improve his back pain. (Testimony). Mr. Carson could identify no jobs which would allow him to take 20 minute to 60 minute breaks to do exercises or stretching. (Testimony). If his back pain improved, he would look for work. (Testimony). Mr. Carson was approved in October of 2020 for Social Security Disability. (Testimony). His disability was prorated to July of 2018. (Testimony). His Social Security Disability is related to both of his feet, his leg, and his back. (Testimony).

CONCLUSIONS OF LAW

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.904(3).

Is the low back injury permanent and a sequela of the work-related foot injuries?

The parties previously stipulated as to the impairment ratings applicable to the right and left lower extremity injuries. Prior to deciding on any other issues, it must be determined whether the claimant's alleged low back injury is a permanent aggravation of Mr. Carson's previous lower back pain and/or a sequela of Mr. Carson's work-related left and right foot injuries.

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable, rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of medical causation is "essentially within the domain of expert testimony." Cedar Rapids Cmty. Sch. Dist. V. Pease, 807 N.W.2d 839, 844-45 (Iowa 2011). The commissioner, as the trier of fact, must "weigh the evidence and measure the credibility of witnesses." Id. The trier of fact may accept or reject expert testimony, even if uncontroverted, in whole or in part. Frye, 569 N.W.2d at 156. When considering the weight of an expert opinion, the fact-finder may consider whether the examination occurred shortly after the claimant was injured, the compensation arrangement, the nature and extent of the examination, the expert's education, experience, training, and practice, and "all other factors which bear upon the weight and value" of the opinion. Rockwell Graphic Sys., Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994). Supportive lay testimony may be used to buttress expert testimony, and therefore is also relevant and material to the causation question.

It is well established in workers' compensation that "if a claimant had a preexisting condition or disability, aggravated, accelerated, worsened, or 'lighted up' by an injury which arose out of and in the course of employment resulting in a disability found to exist," the claimant is entitled to compensation. Iowa Dep't of Transp. v. Van Cannon, 459 N.W.2d 900, 904 (Iowa 1990). The Iowa Supreme Court has held,

> [A] disease which under any rational work is likely to progress so as to finally disable an employee does not become a "personal injury" under our Workmen's Compensation Act merely because it reaches a point of disablement while work for an employer is being pursued. It is only when

> there is a direct causal connection between exertion of the employment and the injury that a compensation award can be made. The question is whether the diseased condition was the cause, or whether the employment was a proximate contributing cause.

Musselman v. Cent. Tel. Co., 261 Iowa 352, 359-60, 154 N.W.2d 128, 132 (1967).

It is well settled in Iowa that an employer is liable for all consequences that naturally and proximately flow from an accident to an employee in the usual course of their employment. Oldham v. Scofield & Welch, 222 Iowa 764, 767-68, 266 N.W. 480, 482 (1936). Further disability is compensable when the further disability is the proximate result of the original injury. Id.

The first question is whether the claimant's back complaints are a sequela of his foot injuries. In this case, the claimant had intermittent back complaints with chiropractic treatment dating back to at least 2014. Some of these back complaints were similar, if not identical to those now complained of by the claimant. Specifically, the claimant indicated that he felt as though his gait was uneven while wearing a CAM boot after the partial amputation of his right foot in 2016. The claimant testified that his treatment with Dr. King was sporadic in nature because the periodic adjustments resolved his issues.

Mr. Carson injured the ball of his left foot on December 27, 2017. He had an extensive course of treatment for his left foot issues, which were slow to heal due to his poorly controlled diabetes. Due to ongoing pain in his hip and knee, doctors placed Mr. Carson in orthotics to offload some of the weight. He then suffered an injury to his right foot caused by metal shavings on July 11, 2018. Mr. Carson also developed a wound to his left heel in July of 2018. During this time, Mr. Carson was placed in a CAM walking boot for his right foot. He also used a roller scooter. In August of 2018, Mr. Carson reported to Dr. King's office for pain in his upper back. This complaint evolved into pain in the left sacroiliac area and lower back.

Eventually, Siemens sent the claimant to Dr. Milani. Dr. Milani indicated that Mr. Carson had an altered gait, which caused tightness and imbalance. Dr. Milani recommended that Mr. Carson learn proper gait mechanics, stretching, and engage in strengthening exercises to his core in order to improve his gait. Dr. Milani opined that Mr. Carson did not have a specific back injury, but that his symptoms were due to changes in Mr. Carson's gait and ambulation. Dr. Milani further opined that these issues should stabilize after Mr. Carson received the appropriate orthotics.

Dr. Hanzel, another treating physician, opined that Mr. Carson had a "significant limb length discrepancy" due to the off-loading orthotics. Dr. Hanzel further agreed that this causes Mr. Carson's gait to shift and affects the SI joint. Dr. Hanzel recommended chiropractic care to relieve Mr. Carson's pain.

Dr. King, the chiropractor, also agreed that Mr. Carson's foot issue caused an altered gait. The examiner from the APEX FCE opined that Mr. Carson's gait became altered after four minutes of walking.

Therefore, I conclude that the lower back pain experienced by Mr. Carson is a sequela of his foot injuries. The question then becomes whether this back pain is a material aggravation or "lighting up" of Mr. Carson's previous back issues, or if this is a new injury.

I do not see any convincing evidence in the record that Mr. Carson's back pain is a new injury. In fact, Dr. Milani opined that Mr. Carson did not have a "specific back injury." Rather, Mr. Carson's complaints are due to an altered gait. During his 2016 treatment with Dr. King, Mr. Carson noted that an altered gait due to wearing a CAM boot caused pain in his sacroiliac joint. While Mr. Carson claims that his current pain is different than that pain, the objective medical records indicate pain to the same parts of the body due to an alleged limb discrepancy. Dr. Milani also opined that the change in gait or ambulation was not causing injury or damage to other body parts.

Dr. King opined that Mr. Carson "will always be left with an altered gait which has been significantly affected by the December 2017 work-related injury." He further noted that this is a permanent alteration to Mr. Carson's gait. He offered permanent restrictions with regard to Mr. Carson's gait. Additionally, Dr. Kuhnlein offered an impairment rating. Interestingly, and conveniently for the claimant, Dr. Kuhnlein altered his initial opinion. His initial opinion indicated that Mr. Carson's low back complaints were due to temporary gait changes. He also indicated that, at some point, Mr. Carson's complaints would be related to his underlying conditions, and not the work injuries. He later opined in a supplemental IME that Mr. Carson suffered a permanent change in his low back condition. This opinion changed due to reviewing records from Dr. King. Dr. Kuhnlein testified at his deposition that his initial impairment rating was based upon how Mr. Carson presented at the time, and that at some point "the back pain would go back." He could not opine as to when that would occur, but indicated that new orthotics could alter Mr. Carson's gait, which presumably would improve his pain.

The defendants had Mr. Carson virtually examined by Dr. Schmitz. Dr. Schmitz opined that Mr. Carson did not suffer a permanent injury, and instead suffered from muscle soreness. Dr. Schmitz never physically examined Mr. Carson. I find it difficult to accept the opinions of Dr. Schmitz due to a lack of physical examination. At best, Dr. Schmitz provided a records review masquerading as an IME.

Dr. King's records are largely the same from visit to visit. There is a small subjective portion which changes over time, but the remainder are fairly standard. Dr. King treated Mr. Carson for a long period of time, and arguably is in the best position to opine as to Mr. Carson's status. However, this longstanding relationship also calls into question Dr. King's objectivity in his opinions. While I respect Dr. King's opinions, I find the opinions of the other medical providers more persuasive.

Based upon the evidence in the record, I do not find that the claimant has produced a preponderance of evidence that the claimant suffered a permanent aggravation of his lower back issues.

Permanent and Total Disability

The claimant alleges that he is permanently and totally disabled as a result of his bilateral foot injuries and his back injury. Above, I ruled that the back injury is a sequela of the foot injuries, but is not a permanent aggravation of Mr. Carson's pre-existing back issues. Therefore, the analysis as this decision continues does not consider the back issues, and only considers limitations related to the claimant's foot injuries.

In Iowa, a claimant may establish permanent total disability under the statute, or through the common law odd-lot doctrine. Michael Eberhart Constr. v. Curtin, 674 N.W.2d 123, 126 (Iowa 2004)(discussing both theories of permanent total disability under Idaho law and concluding the deputy's ruling was not based on both theories rather, it was only based on the odd-lot doctrine). Under the statute, the claimant may establish that they are totally and permanently disabled if the claimant's medical impairment, taken together with nonmedical factors totals 100-percent. Id. The odd-lot doctrine applies when the claimant has established the claimant has sustained something less than 100-percent disability, but is so injured that the claimant is "unable to perform services other than 'those which are so limited in quality, dependability or quantity that a reasonably stable market for them does not exist.'" Id. (quoting Boley v. State, Indus. Special Indem. Fund, 130 Idaho 278, 281, 939 P.2d 854, 857 (1997)).

"Total disability does not mean a state of absolute helplessness." Wal-Mart Stores, Inc. v. Caselman, 657 N.W.2d 493, 501 (Iowa 2003)(quoting IBP, Inc. v. Al-Gharib, 604 N.W.2d 621, 633 (Iowa 2000)). Total disability occurs when the injury wholly disables the employee from performing work that the employee's experience, training, intelligence, and physical capacities would otherwise permit the employee to perform." IBP, Inc., 604 N.W.2d at 633. However, finding that the claimant could perform some work despite claimant's physical and educational limitations does not foreclose a finding of permanent total disability. See Chamberlin v. Ralston Purina, File No. 661698 (App. October 1987); Eastman v. Westway Trading Corp., II Iowa Industrial Commissioner Report 134 (App. May 1982).

In Guyton v. Irving Jensen, Co., the Iowa Supreme Court formally adopted the "odd-lot doctrine." 373 N.W.2d 101 (Iowa 1985). Under that doctrine, a worker becomes an odd-lot employee when an injury makes the worker incapable of obtaining employment in any well-known branch of the labor market. An odd-lot worker is thus totally disabled if the only services the worker can perform are "so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist." Id., at 105.

Under the odd-lot doctrine, the burden of persuasion on the issue of industrial disability always remains with the worker. Nevertheless, when a worker makes a prima

facie case of total disability by producing substantial evidence that the worker is not employable in the competitive labor market, the burden to provide evidence showing availability of suitable employment shifts to the employer. If the employer fails to produce such evidence and the trier of fact finds the worker does fall in the odd-lot category, then the worker is entitled to a finding of total disability. Guyton, 373 N.W.2d at 106. Factors to be considered in determining whether a worker is an odd-lot employee include: the worker's reasonable but unsuccessful effort to find steady employment, vocational or other expert evidence demonstrating suitable work is not available for the worker, the extent of the worker's physical impairment, intelligence, education, age, training, and potential for retraining. No factor is necessarily dispositive on the issue. Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258 (Iowa 1995). Even under the odd-lot doctrine, the trier of fact is free to determine the weight and credibility of evidence in determining whether the worker's burden of persuasion has been carried, and only in an exceptional case would evidence be sufficiently strong as to compel a finding of total disability as a matter of law. Guyton, 373 N.W.2d at 106.

In this case, the parties stipulated to impairment ratings of 17 percent to the ball of the left foot, 1 percent for the heel of the left foot, and 2 percent for the right foot issue. The claimant also suffered a 38 percent impairment to his right foot due to a pre-existing partial amputation. When taken together with nonmedical factors, these impairments do not equal 100 percent. Therefore, the claimant is not permanently and totally disabled pursuant to the statute.

At the time of the hearing, Mr. Carson was 47 years old. He appeared to be a man of average intelligence. His education history includes graduation from Macomb High School in 1991. He received B's, C's, and D's in high school. He has no formal education beyond high school. Mr. Carson has a history of working in physically demanding occupations. He largely worked as a machine operator and order preparer. He also worked as a CNC operator, and has experience as a supervisor. Mr. Carson also has experience operating stand up and sit down forklifts. Some of these jobs required a great deal of standing and lifting. The claimant contends that they are heavy, physical jobs.

There is no vocational expert report in this matter. The only reports regarding his work capabilities are two FCEs. The Apex FCE concluded that Mr. Carson could function in a heavy physical demand level position. Dr. Gause, a treating physician, adopted the opinions of the WorkWell FCE and provided an additional permanent restriction of alternating sitting and standing as tolerated. The WorkWell FCE opined that Mr. Carson had some limitations with: elevated work, forward bent standing, kneeling, stairs with handrail, lifting to the waist from the floor up to 25 pounds, lifting from the waist to the crown up to 15 pounds, and front carrying up to 25 pounds up to 50 feet. The FCE further opined that Mr. Carson had significant limitations in lifting to the waist from the floor up to 35 pounds, lifting from the waist to the crown up to 25 pounds, and front carrying up to 35 pounds up to 50 feet. The examiner from WorkWell opined that this placed Mr. Carson in the "lower medium" category of physical demand.

The examiner concluded his report by indicating that Mr. Carson should be able to change position between sitting and standing or walking as needed due to his foot issues. Dr. Hanzel recommended that Mr. Carson wear protective footwear with a custom orthotic. Dr. Kuhnlein agreed with the Apex FCE findings.

The parties stipulated that Mr. Carson received impairment ratings of 17 percent to the ball of the left foot, 1 percent to the heel of the left foot, and 2 percent to the right foot. Mr. Carson also received an impairment rating of 38 percent for the pre-existing partial amputation of his right foot. Mr. Carson reports serious issues with balance. He also indicated that he cannot stand for too long, and that he only gets two to three hours of sleep at a time. He claimed chronic pain in his left foot. Mr. Carson applied for, and was granted, Social Security Disability; however, these determinations are not binding on this Agency.

Mr. Carson cleans his house, he prepares meals, tends to his children, mows his yard, and does laundry. He also continues to hunt, fish, and ride four wheelers. He also testified that he was unaware of any of the recommended restrictions. Mr. Carson also testified that he has made no efforts to re-enter the workforce. He has not applied for any jobs. He indicated that this was due to his subjective belief that he could not work or find a machine operator job that would allow him to sit.

Considering the factors used to determine whether the claimant is permanently and totally disabled as an odd-lot worker, I find the claimant has not carried his burden to prove that he is permanently and totally disabled. Mr. Carson has no vocational report indicating that he can no longer work. The FCEs indicate that he can perform jobs in either a lower medium or heavy occupational category, and yet, Mr. Carson has not even applied for a job.

The claimant is not permanently and totally disabled utilizing either a statutory or odd-lot analysis based upon the evidence in the record.

Industrial Disability v. Functional Disability

Under the Iowa Workers' Compensation Act, permanent partial disability is compensated either for a loss of use of a scheduled member under Iowa Code 85.34(2)(a)-(u) or for loss of earning capacity under Iowa Code 85.34(2)(v). The extent of scheduled member disability benefits to which an injured worker is entitled is determined by using the functional method. Functional disability is "limited to the loss of the physiological capacity of the body or body part." Mortimer v. Fruehauf Corp., 502 N.W.2d 12, 15 (Iowa 1993); Sherman v. Pella Corp., 576 N.W.2d 312 (Iowa 1998).

An injury to a scheduled member may, because of after-effects or compensatory change, result in permanent impairment of the body as a whole. Such impairment may in turn be the basis for a rating of industrial disability. It is the anatomical situs of the permanent injury or impairment which determines whether the schedules in Iowa Code 85.34(a)–(u) are applied. Lauhoff Grain v. McIntosh, 395 N.W.2d 834 (Iowa 1986);

Blacksmith v. All-American, Inc., 290 N.W.2d 348 (Iowa 1980); Dailey v. Pooley Lumber Co., 233 Iowa 758, 10 N.W.2d 569 (1943); Soukup v. Shores Co., 222 Iowa 272, 268 N.W. 598 (1936).

If an injury extends into the body as a whole, it should be compensated pursuant to Iowa Code 85.34(2)(v). Iowa Code 85.34(2)(v) provides:

> In all cases of permanent partial disability other than those hereinabove described or referred to in paragraphs 'a' through 'u' hereof, the compensation shall be paid during the number of weeks in relation to five hundred weeks as the reduction in the employee's earning capacity caused by the disability bears in relation to the earning capacity that the employee possessed when the injury occurred. A determination of the reduction in the employee's earning capacity caused by the disability shall take into account the permanent partial disability of the employee and the number of years in the future it was reasonably anticipated that the employee would work at the time of the injury. If an employee who is eligible for compensation under this paragraph returns to work or is offered work for which the employee receives or would receive the same or greater salary, wages, or earnings than the employee received at the time of the injury, the employee shall be compensated based only upon the employee's functional impairment resulting from the injury, and not in relation to the employee's earning capacity.

Benefits for permanent partial disability of two members caused by a single accident is a scheduled benefit under Iowa Code 85.34(2)(t). The degree of disability must be computed on a functional basis with a maximum benefit entitlement of 500 weeks. Simbro v. DeLong's Sportswear, 332 N.W.2d 886 (Iowa 1983).

In this case, there is no industrial disability, as it was determined herein that the claimant did not sustain a permanent aggravation of his pre-existing back injury. The parties stipulated that the claimant sustained injuries to his left and right feet. The claimant injured the ball of his left foot on December 27, 2017. He then had an injury to his right foot on August 11, 2018, when additional metal shavings were found to have caused his injury. He also developed a third injury to the heel of his left foot shortly after the August 11, 2018, date of injury. In a statement dated October 25, 2018, Dr. Gerdes-Boelens opined that the wound on Mr. Carson's right foot was caused by Mr. Carson placing most of his weight on that foot due to his left foot injuries. Dr. Gause agreed with Dr. Gerdes-Boelens. This indicates that the claimant's right and left foot injuries stem from one accident. The statute does not require the injuries to be simultaneous, but simply states that the injuries come from one accident. See e.g. Bartleson v. City of Davenport, File Nos. 5063585, 5063586, 5063587, 5063588, 5063590, 5063591 (Appeal 2018). Therefore, Iowa Code 85.34(2)(t) applies, and the disability is calculated based upon the functional ratings with a maximum benefit entitlement of 500 weeks.

The parties previously stipulated to a 17 percent impairment to the left foot due to the injury to the ball of the left foot, a 1 percent impairment to the left foot due to the heel injury, and a 2 percent impairment to the right foot due to the bone removal by Dr. Gause.

Since claimant has suffered a permanent functional loss of 17 percent to the left foot, 1 percent to the left foot and 2 percent to the right foot, these ratings are appropriately converted to 20 percent of the body as a whole, using the combined values chart. (AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, p. 604). Twenty (20) percent of 500 weeks is 100 weeks (20 percent x 500 weeks = 100 weeks). Claimant is entitled to 100 weeks of benefits for the permanent disability. The parties stipulated that Siemens is entitled to a credit for 51 weeks of permanent partial disability benefits previously paid. The parties also stipulated that the award for benefits for any condition would be placed on the July 11, 2018, date of injury file. Therefore, the compensation rate would be seven hundred sixty-one and 93/100 dollars ($761.93) per week. The parties also stipulated that the commencement date for benefits would be March 30, 2021.

Second Injury Fund

Iowa Code 85.64 governs Second Injury Fund liability. Before any liability of the Fund is triggered, three requirements must be met. These requirements are: 1. The employee must have lost or lost the use of a hand, arm, foot, leg, or eye; 2. The employee must sustain a loss or loss of use of another specified member or organ through a compensable injury; and, 3. Permanent disability must exist as to both the initial injury and the second injury.

The Second Injury Fund Act exists to encourage the hiring of handicapped persons by making a current employer responsible only for the amount of disability related to an injury occurring while that employer employed the handicapped individual, as if the individual had no preexisting disability. See Anderson v. Second Injury Fund, 262 N.W.2d 789 (Iowa 1978); 15 Iowa Practice, Workers' Compensation, Lawyer, Section 17:1, p. 211 (2015-2015).

The Fund is responsible for the industrial disability present after the second injury that exceeds the disability attributable to the first and second injuries. Iowa Code 85.64. Second Injury Fund of Iowa v. Braden, 459 N.W.2d 467 (Iowa 1990); Second Injury Fund v. Neelans, 436 N.W.2d 355 (Iowa 1989); Second Injury Fund v. Mich. Coal Co., 274 N.W.2d 300 (Iowa 1970).

Mr. Carson's bilateral foot injuries resulted in permanent functional impairment and necessitate some permanent restrictions. These are compensable injuries and constitute a second qualifying injury to scheduled members.

In this case, Mr. Carson suffered an infection and subsequent partial amputation of his right foot. Amputation of part of his right foot resulted in permanent functional impairment. This is a first qualifying injury.

The claimant sustained two separate and distinct injuries. The first, a partial amputation of the right foot, occurred in October of 2016. The second, wounds to his bilateral feet and a partial amputation of another portion of his right foot, occurred in December of 2017 and August of 2018. Therefore, the claimant is entitled to benefits from the Second Injury Fund of Iowa.

The next issue to be determined is the extent of claimant's entitlement to permanent disability as a result of both injuries. In making this determination, the agency must ascertain the claimant's loss of future earning capacity, or industrial disability, resulting from both injuries.

Industrial disability was defined in Diederich v. Tri-City Ry. Co. of Iowa, 219 Iowa 587, 258 N.W. 899 (1935) as follows: "[i]t is therefore plain that the Legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in terms of percentages of the total physical and mental ability of a normal man."

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted, and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.S.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

In this case, the bilateral foot injuries resulted in a 20 percent impairment to the bilateral feet, as noted above. This breaks down to 17 percent to the left foot due to an injury to the ball of the foot, 1 percent to the left foot due to an injury to the heel of the foot, and 2 percent to the right foot due to a partial amputation. The right foot previously sustained a 38 percent disability due to a partial amputation.

Mr. Carson was 47 years old at the time of the hearing. He graduated high school and was an average student. Mr. Carson has a lengthy work history. He largely has worked as a machinist, in a supervisory position, and has operated forklifts. Mr. Carson has some permanent restrictions, including being able to sit or stand as tolerated. He also had lifting restrictions. Two FCEs placed Mr. Carson in either the heavy or lower medium category of jobs. Several of his podiatrists opined that Mr. Carson may have ongoing foot issues and may struggle to work on his feet. Mr. Carson complains of some pain in his left foot. He also complained that he had balance issues. Mr. Carson does most of the work around his house including, cooking, cleaning, and lawn work. He also takes time to fish, hunt and ride four wheelers. Mr. Carson also

appears to lack any motivation to attempt to return to the workforce. He testified that he had not sought employment since 2018. Siemens could not offer Mr. Carson work because the plant at issue closed.

Based upon the foregoing in consideration of the industrial disability factors, I find that Mr. Carson proved a 60 percent loss of future earning capacity as a result of the combined effects of his foot injuries. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Iowa Code 85.34. Therefore, the claimant is entitled to an award of 300 weeks of permanent partial disability benefits as a result of the combined effects of the October of 2016 right foot amputation, and the December 27, 2017 and August 11, 2018 bilateral foot injuries. The parties stipulated that, in the event of an award, the Fund is entitled to 115.7 weeks of credit under Iowa Code section 85.64. Thus, the Fund shall pay the claimant 184.3 weeks of permanent partial disability benefits. The parties stipulated that the Fund shall pay benefits at the rate of seven hundred sixty-one and 93/100 dollars ($761.93) per week. The benefits shall commence on March 30, 2021.

Alternate Medical Care Pursuant to Iowa Code section 85.27

Iowa Code 85.27(4) provides, in relevant part:

> For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care. . . . The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care.

Iowa Code 85.27(4).

The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Iowa Code 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening, October 16, 1975). An employer's right to select the provider of medical treatment to an injured worker does not include the right to determine how an injured worker should be diagnosed, evaluated, treated, or other matters of professional medical judgment. Assmann v. Blue Star Foods, Inc., File No. 866389 (Declaratory Ruling, May 19, 1988). Reasonable care includes care necessary to diagnose the condition and defendants are not entitled to interfere with the medical judgment of its own treating physician. Pote v. Mickow Corp., File No. 694639 (Review-Reopening Decision, June 17, 1986).

By challenging the employer's choice of treatment - and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See e.g. Iowa R. App. P. 14(f)(5); Bell Bros. Heating and Air Conditioning v. Gwinn, 779 N.W.2d 193, 209 (Iowa 2010); Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). Determining what care is reasonable under the statute is a question of fact. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

An application for alternate medical care is not automatically sustained because claimant is dissatisfied with the care he has been receiving. Mere dissatisfaction with the medical care is not ample grounds for granting an application for alternate medical care. Rather, the claimant must show that the care was not offered promptly, was not reasonably suited to treat the injury, or that care was unduly inconvenient for the claimant. Id. Because "the employer's obligation under the statute turns on the question of reasonable necessity, not desirability," an injured employee's dissatisfaction with employer-provided care, standing alone, is not enough to find such care unreasonable. Id. Reasonable care includes care necessary to diagnose the condition, and defendants are not entitled to interfere with the medical judgement of its own treating physician. Pote v. Mickow Corp., File No. 694639 (Review-Reopening Decision, June 17, 1986).

The claimant requests an order for additional care with Dr. King. In this case, Dr. Kuhnlein recommended that Mr. Carson not have long-term chiropractic care. A number of providers in this case indicated that Mr. Carson does not have a true injury to his back, but requires additional core strengthening or gait training. From the evidence in the record, it does not appear that Dr. King is providing gait training or core strengthening exercises to Mr. Carson. Therefore, ordering additional care with Dr. King is not reasonable. The petition for alternate care is denied.

ORDER

THEREFORE, IT IS ORDERED:

The claimant shall take nothing further regarding File Number 1642424.01 regarding date of injury of December 27, 2017. This is due to the stipulation of the parties and the decision above.

The defendants are to pay unto claimant forty-nine (49) weeks of permanent partial disability benefits at the rate of seven hundred sixty-one and 93/100 dollars ($761.93) per week commencing on March 30, 2021.

The Fund is to pay unto claimant one hundred eighty-four point three (184.3) weeks of permanent partial disability benefits at the rate of seven hundred sixty-one and 93/100 dollars ($761.93) per week commencing on March 30, 2021.

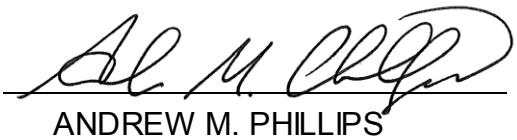
The defendants shall be given credit for benefits previously paid, as stipulated.

The petition for alternate care is denied.

The defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

The defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this ___2nd_____ day of August, 2021.



ANDREW M. PHILLIPS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nicholas Pothitakis (via WCES)

James Bryan (via WCES)

Amanda Rutherford (via WCES)

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.